

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CLARKE of New York: A bill (H. R. 13075) for the relief of Edward N. Moore; to the Committee on Military Affairs.

By Mr. FITZGERALD: A bill (H. R. 13076) for the relief of Maj. Martin F. Scanlon, Lieut. Courtney Whitney, and Lieut. Alfred B. Baker; to the Committee on Claims.

Also, a bill (H. R. 13077) granting an increase of pension to Lena Mauter; to the Committee on Pensions.

By Mr. GENSMAN: A bill (H. R. 13078) granting a pension to Robert F. Foote; to the Committee on Pensions.

Also, a bill (H. R. 13079) granting a pension to Jesse Lairson; to the Committee on Pensions.

By Mr. HAWES: A bill (H. R. 13080) granting an increase of pension to Rodney William Anderson; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Washington: A bill (H. R. 13081) granting a pension to Benjamin L. Swift; to the Committee on Pensions.

By Mr. KENDALL: A bill (H. R. 13082) granting a pension to Mary Wagner; to the Committee on Invalid Pensions.

By Mr. KOPP: A bill (H. R. 13083) granting an increase of pension to Mary A. Huffman; to the Committee on Invalid Pensions.

By Mr. LINEBERGER: A bill (H. R. 13084) granting a pension to Melissa Jean Thompson; to the Committee on Invalid Pensions.

By Mr. MILLSPAUGH: A bill (H. R. 13085) granting a pension to Julian A. Wheeler; to the Committee on Invalid Pensions.

By Mr. SCHALL: A bill (H. R. 13086) granting a pension to Mary A. Sims; to the Committee on Invalid Pensions.

By Mr. SWEET: A bill (H. R. 13087) granting an increase of pension to Josephine M. Orvis; to the Committee on Invalid Pensions.

By Mr. WATSON: A bill (H. R. 13088) granting a pension to Margaret E. Zeek; to the Committee on Invalid Pensions.

Also, a bill (H. R. 13089) granting a pension to Mary H. Pennypacker; to the Committee on Invalid Pensions.

By Mr. WYANT: A bill (H. R. 13090) granting a pension to Amanda Kline; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

6475. By Mr. CROWTHER: Petition of members of the congregation of the First Presbyterian Church of Schenectady, N. Y., on conditions in the Near East; to the Committee on Foreign Affairs.

6476. By Mr. KINDRED: Petition of Frank S. Gardner, secretary of the Board of Trade and Transportation of New York, N. Y., favoring the passage of the American merchant marine bill (H. R. 12817); to the Committee on the Merchant Marine and Fisheries.

6477. Also, petition of W. T. Hornaday, of New York, N. Y., relative to wild game; to the Committee on the Judiciary.

6478. By Mr. KISSEL: Petition of the Simmons-Boardman Publishing Co., New York City, N. Y., favoring the passage of the American merchant marine bill (H. R. 12817); to the Committee on the Merchant Marine and Fisheries.

6479. By Mr. LEA of California: Petition of the Healdsburg Ministerial Association, on behalf of the citizens of Healdsburg, Calif., favoring measures to assist in securing justice and freedom to Armenia; to the Committee on Foreign Affairs.

6480. By Mr. RAKER: Petition of Unity Post, No. 171, Department of California and Nevada, Grand Army of the Republic, Veterans' Home, Napa County, Calif., indorsing and urging the passage of the bill known as the Bursum bill, giving \$72 a month pension to the veteran and \$50 a month to the widow; to the Committee on Invalid Pensions.

6481. By Mr. ROSSDALE: Petition of the Civitan Club of New York, to celebrate the three hundredth anniversary of the purchase of New York; to the Committee on Ways and Means.

6482. By Mr. ROSE: Petition of the Patriotic Order Sons of America, Camp No. 421, urging the passage of the Towner-Sterling bill for the creation of a department of education; to the Committee on Education.

SENATE.

WEDNESDAY, November 29, 1922.

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, on the eve of our national Thanksgiving Day we desire to return thanks for the manifold blessings with which Thou hast crowned our Nation. We bless Thee for Thy presence so frequently in times of anxiety and of danger. We thank Thee for all the providences which have watched over the Nation and brought us to our present situation.

Grant that truth and righteousness may always prevail. Increase among the people the consciousness of doing that which is uppermost in Thine own heart and for Thy purposes among the peoples of the world. Hear us and bless us, and be with any who sorrow to-morrow, and fill the vacancy by Thy presence, through Jesus Christ, our Lord. Amen.

PETER G. GERRY, a Senator from the State of Rhode Island, appeared in his seat to-day.

CALL OF THE ROLL.

Mr. UNDERWOOD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ball	George	McKellar	Simmons
Bayard	Gerry	McLean	Smith
Borah	Glass	McNary	Smoot
Brandegree	Gooding	Nelson	Spencer
Calder	Hale	New	Stanfield
Capper	Harrell	Nicholson	Stanley
Caraway	Harris	Norris	Sterling
Culberson	Harrison	Overman	Swanson
Cummins	Heflin	Page	Townsend
Curtis	Jones, N. Mex.	Pepper	Underwood
Dial	Jones, Wash.	Phelps	Wadsworth
Edge	Kellogg	Poin Dexter	Walsh, Mass.
Elkins	Keyes	Ransdell	Walsh, Mont.
Fernald	Ladd	Rawson	Warren
Fletcher	La Follette	Reed, Pa.	Watson
France	Lodge	Sheppard	Weller
Frelinghuysen	McCumber	Shortridge	Willis

The VICE PRESIDENT. Sixty-eight Senators have answered to their names. There is a quorum present.

PROPOSED ADJOURNMENT OVER THANKSGIVING DAY.

Mr. UNDERWOOD. Mr. President, I move that the Senate do now adjourn until 12 o'clock noon on Friday next.

Mr. CURTIS. I make the point of order that the next thing in order is the reading of the Journal, and that nothing else is to be proceeded with under Rule III until the Journal has been read.

Mr. UNDERWOOD. I beg to differ with the point of order, and I desire to be heard on it for a moment. Undoubtedly the reading of the Journal can not be interrupted by any ordinary business. The reading of the Journal fixes yesterday's proceedings, and that must be attended to; but the right to adjourn is a constitutional right, and there is no rule of Senate procedure which could interfere with the right of this body to adjourn when it saw fit. The Senate Chamber might be on fire, and we might have to adjourn. A mob might be assaulting the outer door, and it would be necessary for the Senate to adjourn. I do not believe that the rule can go so far or that any precedent would justify saying that the Senate, if a majority of the Senators desired to adjourn, could not do so. Therefore I insist that the point of order against the motion to adjourn is not well taken.

The VICE PRESIDENT. The Chair will hear the Senator from Kansas.

Mr. CURTIS. We might as well settle the question now. I desire to make an additional point of order.

Mr. UNDERWOOD. Am I to understand that the Senator concedes the point is not well taken?

Mr. CURTIS. I want to make an additional point of order, and I might as well make it now as at any other time. I make the further point of order that the motion is dilatory.

I know we have no rule of the Senate with reference to dilatory motions. We are a legislative body, and we are here to do business and not retard business. It is a well-settled principle that in any legislative body where the rules do not cover questions that may arise general parliamentary rules must apply.

The same question was raised in the House of Representatives when they had no rule on the question of dilatory motions. It was submitted to the Speaker of the House, Mr. Reed. Mr. Speaker Reed held that, notwithstanding there was

no rule of the House upon the question, general parliamentary law applied, and he sustained the point of order.

I take it for granted that the Chair has a right to take notice of what happened here yesterday and what has happened here this morning that has not occurred before, I think, since I have been in the Senate, anyhow, now going on 14 years. I doubt if it has occurred since the celebrated filibuster on the force bill years ago. I desire at this point, without any further discussion, because it is so fully covered in what I am about to present, to read the opinion of Speaker Reed on this question. It will be found in Hinds' Precedents at page 358, as follows:

The Speaker recognized Mr. John Dalzell, of Pennsylvania, who arose to address the House, when Mr. William D. Bynum, of Indiana, claimed the floor on a question of personal privilege, and being recognized by the Speaker addressed the House on that question.

At the conclusion of Mr. Bynum's remarks, Mr. William M. Springer, of Illinois, moved that the House adjourn.

The Speaker ruled the motion not in order.

From this ruling Mr. Springer appealed.

The Speaker thereupon made the following statement to the House as the grounds of his ruling:

The House will not allow itself to be deceived by epithets. The facts which have transpired during the last few days have transpired in the presence of this House and of a very large auditory. No man can describe the action and judgment of this Chair in language which will endure unless that description be true.

A man much more famous than any in this Hall said many years ago that nobody could write him down but himself. Nobody can talk any Member of this House down except himself.

Whatever is done has been done in the face of the world, and is subject to its discriminating judgment. The proceedings of this House, so far as the Chair is concerned, have been orderly, suitable in conformity to the rules of parliamentary law, and the refusal of the Chair to entertain the motion to adjourn at this juncture is strictly in accordance therewith.

There is no possible way by which the orderly methods of parliamentary procedure can be used to stop legislation. The object of a parliamentary body is action, and not stoppage of action. Hence, if any Member or set of Members undertakes to oppose the orderly progress of business, even by the use of the ordinarily recognized parliamentary motions, it is the right of the majority to refuse to have those motions entertained, and to cause the public business to proceed.

Primarily the organ of the House is the man elected to the Speakership. It is his duty in a clear case, recognizing the situation, to endeavor to carry out the wishes and desires of the majority of the body which he represents. Whenever it becomes apparent that the ordinary and proper parliamentary motions are being used solely for purposes of delay and obstruction; when Members break over in an unprecedented way the rule in regard to the reading of the Journal; when a gentleman steps down to the front amid the applause of his associates on the floor and announces that it is his intention to make opposition in every direction, it then becomes apparent to the House and to the community what the purpose is. It is then the duty of the occupant of the Speaker's chair to take, under parliamentary law, the proper course with regard to such matters; and in order that there might not be any misunderstanding as to whether or not it is the wish or desire of the majority of the House—apparent as it seems to be—the question of the appeal from the refusal of the Chair to entertain the motion will be put to the House for its judgment and determination.

There was an appeal taken, and on the appeal the House sustained the ruling of Speaker Reed.

Mr. President, so far as this matter is concerned, I think it is useless to say more. We were notified here on yesterday by the leader on the other side of the Chamber that the pending legislation would not be allowed to pass; he frankly made that statement in order that this side might know the situation, and I think he ought to be commended for his frankness.

However, the question now presented to the majority is, Shall we do business or shall we permit business to be retarded? I make the point of order that under Rule III the reading of the Journal must be proceeded with until disposed of, and the further point that the motion is dilatory.

Mr. UNDERWOOD. Mr. President, I have heard the same song sung before that my good friend from Kansas [Mr. CURTIS] has just finished. I became a Member of the House of Representatives when that great statesman and great man, Speaker Reed, was in his glory as the Speaker and leader of the House of Representatives; when the stand-pat policies of the Republican Party were proclaimed by every flag and from every doorstep. It was the pride of the Republican organization that the Republicans used the strong arm to enforce their will upon the country; that they represented the special interests of the United States, and through them that they enforced the legislation of the land.

The Senator from Kansas has correctly quoted from the ruling of Speaker Reed. There was no rule of the House of Representatives to justify Mr. Speaker Reed's ruling, but, because an exigency in the parliamentary machine had arisen, Speaker Reed held that a simple motion to register the will of the House could be ignored by the Speaker. He did ignore it, and a Republican stand-pat House of Representatives sustained his ruling. What was the result? It was not long afterwards that Grover Cleveland was elected President of the United States, for the American people spewed up the proposition that

a parliamentary body could be run by force and not through an intelligent understanding.

Now, what does the Senator from Kansas ask the Chair to do? So far as this particular motion is concerned, there is nothing in it that is dilatory. To-morrow will be Thanksgiving Day. It has been well understood for days that we would adjourn over Thanksgiving Day; many of the Senators on the floor have made their arrangements for Thanksgiving Day. My motion is entirely in accord with the understanding that we have had. I recognize that the leadership may change their view in reference to the matter, but, nevertheless, what I have stated has been the understanding.

Mr. CURTIS. It would be better to proceed and transact business to-day and adjourn this evening after we shall have concluded to-day's business.

Mr. UNDERWOOD. Of course, a Senator on the other side of the Chamber may make the motion when it is desired, but there will not be any business transacted to-day. The Senator from Kansas knows that. I am not disguising the fact, Mr. President, because I believe in dealing in a perfectly frank manner with the Senate and with the Chair, if it will help the Chair any to have an understanding of the fact that we do not propose to do any business at this time. Of course, the Chair can overrule the motion if he desires to invade or to disregard parliamentary law, but there are plenty of other ways of securing a call of the roll, and we shall have many roll calls to-day, no matter what the ruling of the Chair may be. I am merely protesting in the interest of the preservation of the rules of the Senate.

Mr. President, Mr. Speaker Reed was a great man, a man of great force, but he represented ideals of government which the American people have repudiated, which have become archaic. They may have been the dominating ideals and controlling force in Speaker Reed's time, but the American people have cast them aside. It was because of the position that the Republican Party took, standing pat on tariff bills and rejecting legislation which the country desired, that from the bowels of the Republican Party came forth a number of men who called themselves "Progressives," and the Progressive Party finally, when Theodore Roosevelt became President, controlled the organization itself. Now it is slipping back to the times of Reed, to the times of standpatism.

I admit, Mr. President, that as the leader on this side of the Chamber, practically representing the voice of this side, with, perhaps, a few exceptions—

Mr. LODGE. Mr. President—

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from Massachusetts?

Mr. UNDERWOOD. I do.

Mr. LODGE. Mr. President, I merely want to say to the Senator that it seems to me he is confusing the contest which arose under Mr. Reed with one which arose nearly 20 years later when the Senator from Alabama was a Member of the House. If the Senator will allow me, Mr. Reed's reform of the rules and the position he took, especially with reference to a quorum, as the Senator knows, have been sustained by the Supreme Court and adopted by the Democratic Party in the House.

Mr. UNDERWOOD. Of course I am familiar with that proposition. The Supreme Court, of course, took the Journal of the House, as it will take the Journal in this case, and held that what the Journal showed must control, notwithstanding a quorum was counted. The particular instance occurred just before I became a Member of the House, but I served under Mr. Reed the second time he was Speaker, when he still maintained all his power and glory, and I can very well remember the time when not only a Democrat but even a Republican did not think of attempting to take the floor until he had gone to the Speaker's office and asked his kindly permission to accord him recognition some time during the day. It was necessary for a Member, if he had a bill or a motion in which his constituents were interested, to go with humble voice and bowed knee to the Speaker's office and ask kindly permission that he might secure recognition during the day. It was that character of procedure that was invoked and in force in this country when the precedent which the Senator from Kansas cites was made. Of course if Senators on the majority side are reactionary enough to want to go back to those conditions and those times then they can use their votes to do it. It is not so very material to me whether I secure the adoption of the motion to adjourn over until Friday because there are plenty of other motions which may be made, but I think the Senators on the other side will make a very great mistake if they head back toward Reedism at this time. I do not think the country will sustain them.

Mr. President, because I very candidly announced that this side of the Chamber was going to use every legitimate parliamentary means, as we have a right to do within the rules, to prevent the passage of the Dyer bill, that is called a filibuster by the other side, and I confess that it is. I do not generally believe in filibusters; I do not think they are justified. I myself, under proper circumstances, would like to see a liberalized cloture rule in this body. I want business transacted, and one reason why I stated yesterday most candidly that we on this side did not propose to allow the passage of this bill if we could prevent it by any legitimate parliamentary means, was that I want the business of the country and of the Senate to be transacted. The appropriation bills will be here shortly. I want to see them passed. They are a part of the legitimate business of the country. In Mr. Taft's administration, when I happened to be leader of the Democratic House, I assisted in securing the passage of the supply bills which were needed to run the Government, notwithstanding the President was a Republican and the House was Democratic.

I feel the same way about that question now. The majority are entitled to have the supply bills passed; they ought to become a law before the 4th of March, and I wish to help in that direction; but if Senators on the other side have any reason they must understand that if they are going to inject into the proceedings of the Senate what we call a force bill—they may call it by some other name, but it has been called in my section of the country a force bill so long that it would not be recognized by any other name—if the majority expect to keep that measure hanging over and then lay it aside in order to pass appropriation bills, they must know perfectly well that the filibuster is going to continue on the appropriation bills, and those bills are going to be slaughtered. There is but one way for the Senate now to get down to work and transact the business of the Government before the 4th of March, and that is to get a final disposition of this force bill before anything else is done. Pass it if you can; abandon it if we force you to do so.

As I said yesterday, not for a moment do I believe in mob rule or mob law; I believe that the law should be enforced by the officers of the law and by nobody else, but when it is attempted to take away the jurisdiction of the States in reference to certain crimes because they are attended by a mob and leave the jurisdiction of the States as to other crimes where there is not a mob, to take away the jurisdiction of the States when the mob is acting in violation of law, but not to take it away when the mob is not organized against the law, discriminating in favor of those whom it is desired to keep out of the Dyer bill for your own purposes and putting in the Dyer bill those you want to bring within the jurisdiction of the Federal Government, of course that is an affront to a large section of this country.

So long as the Senate has the rules that it has now, you know just as well as I know that I am standing here that you can not pass it; and, more than that, the country does not want you to pass it. The South is absolutely opposed to it, and always has been; but it goes farther than the South. You can not tell me that there are not thousands and hundreds of thousands of men and women in the North who are just as much opposed to this class of legislation as they are in the South. There is no difference between them. The old issues and animosities of the Civil War have long since passed. We belong to the same kin and the same people, and we think the same way. It is not that I am not in favor of protecting the negro race under the law. I think the negro has as much right to protection under the law as the white man has, but he should be protected within the Constitution; and you have no right to rape the Constitution of your country because you think somebody has violated the rights of some citizen in a particular State.

That is the issue, Mr. President. Of course, if Senators on the other side want to adopt the policy of injecting the strong arm, we are not going to deny that we are filibustering. We want the country to know just exactly what we are doing, and I am doing it because I think it is the only way to expedite the public business. If the Dyer bill is not off the floor of the Senate and an understanding reached in reference to it, or it is passed, you can not pass your supply bills this winter, because you are going to inject a feeling between the two sides of the Chamber that is going to make general legislation impossible. I do not want that to happen. Therefore, if you think you can pass it with the strong arm, now is your time to do it; but I do not think you can under the rules of the Senate, and I want to say this, Mr. President:

Of course the Senator from Kansas [Mr. CURTIS] has cited the ruling of Mr. Reed, where he admitted that there was

nothing in the rules of the House to justify the ruling that a motion to adjourn under these circumstances was dilatory; but it must be remembered, Mr. President, that the rules of the House at that time were very different from the rules of the Senate. The House at that time had adopted an absolute cloture rule, by which the majority at any time that it saw fit, by a vote, could absolutely cut off debate.

Mr. CURTIS. Mr. President—

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from Kansas?

Mr. UNDERWOOD. I do.

Mr. CURTIS. I have not the book before me; but I think, if the Senator will read the precedent I cited, he will find that this decision was made before the adoption of any rule by the House, and at a time when there were no rules of the House.

Mr. LODGE. I was a Member of the House at the time, and it was made before any rules were adopted.

Mr. SWANSON. The House is not a continuing body, and consequently it does not have rules to govern it until they are adopted, except the rules of general parliamentary law. This is a continuing body. The Presiding Officer of this body is bound by the rules of the Senate, which are continuing.

Mr. LODGE. That is an interesting question, but that is not the point. The point is that this ruling was made before the rules had been adopted, not afterward.

Mr. UNDERWOOD. I understand. The Senator is right about that; but what I am addressing myself to is the attitude of the parliamentary body. That is a point that the presiding officer of any parliamentary body will consider. This motion came before the House had passed the resolution adopting its rules, as it does every two years; but the preceding Houses had an absolute cloture rule. The policy of the House of Representatives was in favor of an absolute cloture rule. It was in favor of gagging the individual Member in order that the majority might move on and do their business. That is not the rule of the Senate. That never has been the rule of the Senate. That is not the rule under which we do business here.

The right of the individual Senator under the rules of the Senate is recognized in preference to the desire of the majority to do business. Any individual Senator can take the floor and talk for a month, if he wants to, under the rules of the Senate, and unless you can get a two-thirds vote, after a day's notice, nobody can stop him. The Senate does not stand for a gag rule or a gag decision; at least, it has not in the past. If it desires to do so this morning, it will set a precedent in the Senate; and, of course, it is not very material, as I said. We may not be able to stop all the business you are going to do, Senators, but you can not prevent us from having a roll call on every affirmative thing that you want to do. You can not hold that that is dilatory. The Constitution guarantees to us the right to a roll call on every single affirmative thing you are going to do, and the rules of the Senate guarantee to us the right to demand a quorum here before the roll call is started, after each transaction.

Just take your own calendar. The nominations of certain men have been sent in here for confirmation in executive session. Two roll calls consume half an hour. The confirmation of ten men, without anybody opening his mouth, means an ordinary legislative day of five hours. The Senator from Indiana [Mr. WATSON] smiles, but he will not smile when we run this thing for a week or two, because that is what you are going to get. You might just as well make up your minds to that—that we are going to have a roll call on every proposition on which the Vice President will allow us to have a roll call, and I know he will not deny a roll call on every affirmative proposition that you have in mind.

Mr. NELSON. Mr. President, will the Senator from Alabama yield to a little interruption?

Mr. UNDERWOOD. Certainly, if I do not yield the floor.

Mr. NELSON. I shall be very brief.

It seems to me the Senator is proceeding to unusual and unnecessary lengths. Granting that the other side of the Chamber are fully justified in preventing the passage of this bill, they certainly are not justified in filibustering when we take up other measures. They ought to be content with defeating this bill; but the remarks of the Senator indicate that unless we withdraw this bill they will defeat everything, and allow nothing to come up.

Mr. UNDERWOOD. To be sure; undoubtedly.

Mr. NELSON. That is wholly unnecessary. You ought to be content if you can defeat this bill, without obstructing the wheels of legislation.

The Senator refers to Speaker Reed's conduct and says that it was necessary to go and see him about getting recognition. It was my fortune to be a Member of the Forty-eighth, Forty-

ninth, and Fiftieth Congresses. The House was Democratic. Carlisle was Speaker. I represented a district of 29 counties. I had no end of local legislation, and every time I wanted to get a little bill through I had to go to Speaker Carlisle and get permission to get recognition.

Why is not the Senator content with defeating this bill, instead of holding out a threat here and saying: "We are not content with defeating this bill, but we want to punish the other side of the Chamber because they advocate the passage of the bill. We want to punish your side and not let you do any kind of business at all." Why not be content, whenever a motion is pending, to take up this bill, with filibustering all you can against it? When we attempt to bring up other legitimate business, why should you filibuster against that? That is the main question. That is in the nature of a reprisal; that is in the nature of a threat unworthy of the Senator from Alabama.

Mr. UNDERWOOD. Mr. President, this is not the first time I have engaged in a filibuster. I thank my friend from Minnesota for his kindly suggestion. We are old-time friends. I once lived as a boy in his State, and one of the great glories that I get out of having lived in Minnesota at one time is that that grand old State is represented in the United States Senate by a very great man whom I love and honor and reverence; but I am not prepared to take his suggestions in all matters, and if my friend will allow me, I will tell him why.

This is not the first time that I have ever engaged in a filibuster. I do not often do it, and I do not intend ever to do it without adequate justification.

Mr. NELSON. Mr. President, will the Senator allow me to interrupt him?

Mr. UNDERWOOD. Certainly.

Mr. NELSON. I do not dispute the Senator's right to have a hold-up on this particular bill. Grant that; but I say, and my contention is, that when you have accomplished that, if you can prevent the passage of this bill, you ought not to stand in the way of other important legislation.

For example, we now have an important nomination pending before the Senate. Two of the judges of our Supreme Court are off the bench. The court needs reinforcement. The committee has reported the nomination of an Associate Justice of the Supreme Court. I ask the Senator from Alabama, for whom I have the highest respect, why is it necessary to hold up the consideration of that matter to defeat this Dyer bill, as it is called?

Mr. UNDERWOOD. I shall be glad to explain it to the Senator.

Mr. NELSON. And why is it necessary to hold up any other public business? We can make an exception in every one of these cases; we can agree to take up public business and go on with it; and when this Dyer bill, as you call it, comes up for consideration filibuster to your heart's content on that bill. I am not quarrelling with you on that point, but I say you have no right to carry your war farther than that. If you do, you are doing an injustice to the American people and the public of this country.

Mr. UNDERWOOD. I am glad to have my friend from Minnesota say that, because I want to answer him and put the record straight. Of course, he understands thoroughly, as I have already said several times, that the minute we can reach an understanding with the other side that this Dyer bill is not going to be considered at this session of Congress, we will co-operate and help to transact all the business coming before us. I am anxious to do it. I am anxious to have the Executive Calendar cleared. I am anxious to see the appropriation bills passed. There may be some other business the other side may bring up, which I may vote against, but I know of nothing the majority are going to bring up which I shall delay unnecessarily, as far as I am individually concerned. I can not speak for everybody, but as far as I am individually concerned, my friends on the other side need expect no delay.

This proposition is fundamental. We regard this bill as a rape of the Constitution. We regard the bill as an infringement of the liberties of our people and the freedom of our State governments, and we feel that we are justified in making any attack on it.

I want to say to the Senator from Minnesota, in all candor, I have no meanness in my soul against any man on the other side of the Chamber. I have a feeling in my heart of the utmost friendship for you all, the kindest feeling, both individually and collectively, and I have no desire to punish you.

Mr. NELSON. Mr. President—

Mr. UNDERWOOD. If the Senator will allow me a moment, I will explain why I do not want anything to come up.

So our action is not in the way of reprisal; but I am not going to punish the gentlemen on this side and let those on

the other side go without their share of punishment. If we agree that we are merely going to fight the Dyer bill, and let the majority lay it aside and transact such business as they want to transact, they will have it as a bumper against anything we may want to do. We will be gagged and stopped from any work during the session, and they can go ahead with what their leadership determines is business of prime importance; and therefore we will be the only ones to get the crushing. They will only have to keep the Dyer bill here as a bumper against other legislation, and put through what they think is necessary during the session. They are not going to do it in that way.

Mr. NELSON. Mr. President, will the Senator yield to me?

Mr. UNDERWOOD. Certainly.

Mr. NELSON. Let us see what an attitude the Senator from Alabama presents. Here I am, a "black" Republican from the State of Minnesota. I am trying to get a Democratic justice of the Supreme Court confirmed, and just because of this Dyer bill the Senator intimates that that shall not be done.

Mr. UNDERWOOD. I do not say it can not be done. Perhaps the other side can do it; but they are going to do it against any efforts we can make.

Mr. NELSON. What connection has that with the Dyer bill? Can not the Democrats continue their filibuster on the Dyer bill and make an exception and let us go ahead with executive business? My point is that the Dyer bill can be held up the whole session without obstructing public business. There is no occasion to obstruct the legitimate public business for the purpose of defeating that one bill. I am not taking any issue with the Senator from his standpoint. He probably is justified in fighting that bill. Grant that. But he is not justified in continuing his obstructive tactics in respect to every other matter of public business.

Our Supreme Court is now partly incapacitated for need of a working force. We need an additional justice. We in the State of Minnesota would have been glad if the President had tendered a Republican nominee, but the President has not seen fit to do that; he has tendered one of the best Democratic lawyers in the country. He will be one of the best judges in the country, and I am anxious to see him confirmed. There is no reason why the Senator from Alabama should obstruct that matter in his desire to defeat the Dyer bill.

Mr. UNDERWOOD. Mr. President, I love the Senator from Minnesota so much, and have loved him so long, that if I were disposed to make an exception for anybody, I would make it for the senior Senator from Minnesota; but I am not so disposed. So far as the nomination of the distinguished lawyer from Minnesota for a place on the Supreme Court bench is concerned, I think the President acted splendidly in appointing a Democrat to that vacancy, and, of course, it is not that we desire for a moment to interfere with an appointment of that kind that we are pursuing these tactics; but when we are following this kind of tactics we can not make exceptions.

Some gentlemen whom I see on the other side of the Chamber, who have served with men in both Houses for many years, probably recall an incident which happened about 20 years ago, when a gentleman by the name of Jim Butler was commissioned as a Congressman from the State of Missouri. The Republican side of the House had turned him out once, but the people sent him back. He was reelected and sent back, and it was a short session. They took the testimony in the case, and when it came in it would make a large volume. The Republican committee declined either to print the testimony or to read it, and started to turn Butler out, and did turn him out, without either printing or reading the testimony. I happened to be on the Rules Committee of the House with Mr. Richardson at that time, and the Republican side did no business for about three weeks. That was when they adopted their famous rule to pass appropriation bills and agree to the amendments en bloc. What was the result? They never have turned another man out of the House of Representatives without printing the testimony and giving his case fair and reasonable consideration. The practice of making a man walk the plank with a black flag stopped after that time.

This is not the first time a "force" bill has come before the Senate of the United States.

The VICE PRESIDENT. The Chair is ready to rule on the point of order, unless the Senator wishes to say something more.

Mr. UNDERWOOD. If the Vice President will allow me just to finish the sentence, I will stop. This is not the first time a "force" bill has come before the Senate of the United States. Such a bill has always met the opposition this one is meeting now, and such bills are going to meet that opposition, and the other side of the Chamber may as well recognize it. It is not with any animosity that we say that, but it is fundamental to

us. We can not make anything by just letting the other side dillydally with it and pass their other legislation. The only way we can fight it and make the majority understand we are fighting it, and let the country understand we will always fight such a measure, is to simply obstruct legislation until we come to an understanding about it.

Mr. KELLOGG. Will the Senator yield?

Mr. UNDERWOOD. I yield.

Mr. KELLOGG. Suppose the shipping bill comes before the Senate, is the Senator going to take the same position, that there will be no business done until that is laid aside?

Mr. UNDERWOOD. I can speak for no one but myself, but so far as I am concerned, I shall not attempt in any way to obstruct that legislation. I want to say to the Senator that I have always believed in a merchant marine. I have never voted for a subsidy, and I will probably not vote for a subsidy this time, although I am not committed, and do not want to commit myself on that question until I hear all the arguments; but I should be very glad to see a bill go through the Senate which would build up an American merchant marine, and let it live. But I can assure the Senator that so far as I am concerned, he will find no obstructive tactics on my part against that bill, even if the other side presents it in such a way that I can not give my affirmative vote for it. I may, and probably shall, have to vote against it, but I shall not obstruct it, because it is a legitimate piece of business legislation. This is a very different thing. This is not business legislation. We regard this proposition as fundamental, going to the freedom of our State governments and the liberties of our people. We would not feel justified in making a fight of this kind against a mere matter of spending dollars. It is a very different proposition.

I thank the Vice President for his courtesy.

Mr. HARRISON. Mr. President, does the Presiding Officer desire to rule without hearing more with respect to this question?

The VICE PRESIDENT. The Chair is ready to make a ruling.

Mr. HARRISON. I wanted to call to the Chair's attention the issues which we fought out in past elections, and I can read some utterances of some very distinguished citizens, representatives of the State of Massachusetts, who fought "Reedism" and "Cannonism," which is one of the questions here. I desired to call the attention of the Chair to the fact, too, that some of the Senators who are now trying to get the Chair to rule in an autocratic way were at that time particeps criminis to the proceedings which were afterwards condemned by the American people. Of course, if the Chair does not desire to hear the utterances of some very distinguished Republicans touching the autocratic rules of the House, upon which this decision is based, then, of course, I do not want to take up the time of the Presiding Officer and the Senate, but I have the textbook of the Republican Party here, and the campaign textbook of the Democratic Party for the years 1908 and 1910, when this issue was fought out before the American people and was overwhelmingly condemned by them, what was condemned would seem to me out of keeping with the trend of the day and the 7,000,000 majority which the Vice President received, with the present President of the United States, on what was apparently not a reactionary platform but on a platform of liberal views. Of course, if the Presiding Officer does not desire to hear these read I do not want to burden him.

The VICE PRESIDENT. The Chair is ready to make a ruling. The Chair thinks the Senator from Mississippi may presume that the Chair is familiar with those things to which the Senator from Mississippi would like to direct the attention of the Chair.

We are proceeding under Rule III, which provides for the commencement of the daily sessions of the Senate. It is as follows:

The Presiding Officer having taken the chair, and a quorum being present, the Journal of the preceding day shall be read, and any mistake made in the entries corrected. The reading of the Journal shall not be suspended unless by unanimous consent.

The Chair is of the opinion that that rule covers the present situation, that nothing but unanimous consent can suspend the reading of the Journal. The Chair therefore rules that the point of order is well taken.

Mr. UNDERWOOD. Mr. President, I appeal from the ruling of the Chair. I wish to say that I do not question that if the status were as the Chair indicates, the Chair would be right; that if we had once entered upon the reading of the Journal nothing could interrupt it except unanimous consent. Rule III applies only to the reading of the Journal, but we have not reached that stage. The Journal has not yet been presented to the Chamber; it is not open for consideration; and, therefore,

I do not agree with the Chair that we can not adjourn before the Journal is read.

On my appeal I ask for the yeas and nays.

Mr. JONES of Washington. What is the question, Mr. President?

The VICE PRESIDENT. The question is, Shall the decision of the Chair stand as the decision of the Senate?

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. EDGE (when his name was called). I have a general pair with the Senator from Oklahoma [Mr. OWEN]. I transfer that pair to the Senator from California [Mr. JOHNSON] and vote "yea."

Mr. FLETCHER (when his name was called). I have a general pair with the Senator from Delaware [Mr. BALL]. I am advised that he is absent. Being unable to obtain a transfer I withhold my vote.

Mr. GLASS (when his name was called). I transfer my general pair with the senior Senator from Vermont [Mr. DILLINGHAM] to the junior Senator from Delaware [Mr. BAYARD] and vote "nay."

Mr. McCUMBER (when his name was called). I transfer my general pair with the junior Senator from Utah [Mr. KING] to the junior Senator from South Dakota [Mr. NORBECK]. I will let this announcement of transfer stand during this calendar day. I vote "yea."

Mr. STANLEY (when his name was called). I transfer my general pair with the junior Senator from Kentucky [Mr. ERNST] to the senior Senator from Missouri [Mr. REED] and vote "nay."

Mr. SUTHERLAND (when his name was called). I have a general pair with the senior Senator from Arkansas [Mr. ROBINSON]. I transfer that pair to the junior Senator from New Mexico [Mr. BURSUM] and vote "yea."

Mr. FLETCHER (when Mr. TRAMMELL's name was called). I desire to announce that my colleague [Mr. TRAMMELL] is unavoidably absent and that he is paired with the Senator from Rhode Island [Mr. COLT]. I ask that this announcement may stand for the day.

Mr. WATSON (when his name was called). I transfer my general pair with the senior Senator from Mississippi [Mr. WILLIAMS] to the junior Senator from Arizona [Mr. CAMERON] and vote "yea."

The roll call was concluded.

Mr. BROUSSARD. I am paired with the Senator from New Hampshire [Mr. MOSES]. I transfer that pair to the Senator from Arizona [Mr. ASHURST] and vote "nay."

Mr. FLETCHER. I transfer the pair which I have heretofore announced to the Senator from Rhode Island [Mr. GERRY] and vote "nay."

Mr. HALE. Transferring my pair with the Senator from Tennessee [Mr. SHIELDS] to the junior Senator from Nevada [Mr. ODDIE], I vote "yea."

Mr. CURTIS. I wish to announce that the senior Senator from Delaware [Mr. BALL] is detained on official business. He stands paired on this vote with the Senator from Rhode Island [Mr. GERRY].

I wish also to announce that the Senator from Illinois [Mr. McCORMICK] is paired with the Senator from Wyoming [Mr. KENDRICK].

The result was announced—yeas 41, nays 24, as follows:

YEAS—41.

Calder	Ladd	Pepper	Sutherland
Capper	Lodge	Philpps	Townsend
Curtis	McCumber	Poinexter	Wadsworth
Edge	McKinley	Pomerene	Walsh, Mass.
Elkins	McLean	Rawson	Warren
France	McNary	Reed, Pa.	Watson
Frelinghuysen	Nelson	Shortridge	Weller
Gooding	New	Smoot	Willis
Hale	Nicholson	Spencer	
Kellogg	Norris	Stanfield	
Keyes	Page	Sterling	

NAYS—24.

Broussard	Glass	McKellar	Simmons
Caraway	Harris	Myers	Smith
Culberson	Harrison	Overman	Stanley
Dial	Heflin	Pittman	Swanson
Fletcher	Hitchcock	Ransdell	Underwood
George	Jones, Wash.	Sheppard	Walsh, Mont.

NOT VOTING—30.

Ashurst	Cummins	Kendrick	Owen
Ball	Dillingham	King	Reed, Mo.
Bayard	Ernst	La Follette	Robinson
Borah	Fernald	Lenroot	Shields
Brandeggee	Gerry	McCormick	Trammell
Bursum	Harrell	Moses	Williams
Cameron	Johnson	Norbeck	
Colt	Jones, N. Mex.	Oddie	

So the Senate decided that the decision of the Chair should stand as the judgment of the Senate.

THE JOURNAL.

The VICE PRESIDENT. The Secretary will read the Journal.

The Assistant Secretary proceeded to read the Journal of yesterday's proceedings.

Mr. CURTIS. I ask unanimous consent to dispense with the further reading of the Journal.

Mr. McKELLAR. I object.

The VICE PRESIDENT. There is objection, and the Journal will be read.

The Assistant Secretary resumed and concluded the reading of the Journal.

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). The question is, Shall the Journal be approved?

Mr. HARRISON. Mr. President, very much to my surprise, I notice that the Journal omits a very important part of the proceedings of yesterday. It does not incorporate the prayer by Rev. J. J. Muir as it appears on page 325 of the CONGRESSIONAL RECORD. I therefore make the motion that the Journal be amended so that at the proper place it may show who delivered the prayer and set out the prayer in full.

Mr. CURTIS. Mr. President, if the Senator has concluded his motion, I desire to make a point of order.

Mr. HARRISON. I desire to discuss the motion.

Mr. CURTIS. Then I desire to make a point of order when the Senator shall have concluded.

Mr. OVERMAN. If the motion is going to be discussed, there ought to be a quorum here; and I make the point of no quorum.

The PRESIDING OFFICER. The Senator from Mississippi has the floor.

Mr. OVERMAN. But I can rise to suggest the absence of a quorum at any time, no matter who has the floor.

The PRESIDING OFFICER. The Chair thinks so.

Mr. OVERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from North Carolina suggests the absence of a quorum. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Bayard	Gooding	Myers	Smoot
Borah	Hale	New	Spencer
Brandeggee	Harris	Nicholson	Stanfield
Broussard	Heflin	Norris	Sterling
Calder	Jones, Wash.	Overman	Sutherland
Capper	Kellogg	Page	Swanson
Caraway	Keyes	Pepper	Townsend
Curtis	Ladd	Phipps	Wadsworth
Dial	La Follette	Pittman	Walsh, Mass.
Edge	Lodge	Ransdell	Warren
Elkins	McCumber	Reed, Pa.	Watson
Fletcher	McKellar	Sheppard	Weller
Frelinghuysen	McLean	Shortridge	Willis
George	McNary	Smith	

The PRESIDING OFFICER. Fifty-five Senators have answered to their names. A quorum is present. The Senator from Mississippi has the floor.

Mr. SMITH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from South Carolina?

Mr. HARRISON. I do not wish to lose the floor.

Mr. SMITH. I move that the Senate adjourn.

The PRESIDING OFFICER. Does the Senator from Mississippi yield the floor?

Mr. HARRISON. I do not want to lose the floor.

Mr. SMITH. I make a motion, Mr. President.

The PRESIDING OFFICER. The Senator can not make a motion while the Senator from Mississippi holds the floor.

Mr. HARRISON. Mr. President, a parliamentary inquiry. If I should yield for that motion, would I lose the floor?

The PRESIDING OFFICER. The Senator would.

Mr. HARRISON. Then, I will ask the Senator from South Carolina to withhold his motion for a few moments.

Mr. SMITH. I withhold the motion.

Mr. HARRISON. I inquire of the Senator from Kansas if he now wishes to make a point of order?

Mr. CURTIS. No; I do not intend to make a point of order on the pending motion.

Mr. HARRISON. I desire to address myself to the motion.

Mr. President, I had always thought that the prayer of the Chaplain of the Senate was a part of the Journal, but in the proceedings of yesterday as they appear in the Journal which has just been read I observe that no mention is made of the fact that there was prayer at the opening of the Senate on that day. I suppose other Senators were just as much surprised as I was to find that no mention of that fact was made in the Journal. I am casting no reflection upon the very efficient Journal clerk when I make that observation, because it

may have been the policy of the past. I have not looked over the Journals, and perhaps he was just following the precedent. If it has been the practice there never was a better time to adopt a different practice than to-day.

I presume that the vote here will be unanimous for my motion to incorporate the prayer in the Journal. One might argue that it is in the CONGRESSIONAL RECORD, and that will do. CONGRESSIONAL RECORDS are destroyed. The Journal is the official document to preserve the proceedings of this body. All the CONGRESSIONAL RECORDS may in time vanish, but the Journal will be preserved, and always should record what takes place in this body.

What if a hundred years from now your great-great-grandchildren should look over the Journal of yesterday and discover that no mention is made of the fact that there was prayer yesterday in opening this body, and then they should take the proceedings of the following day, as they will appear in the Journal to-morrow, and should read that their great-great-grandfathers voted against my motion to amend the Journal so that the prayer might be incorporated in the Journal? Why, those children of to-morrow would hang their heads in shame over the action of their ancestors. So we must change this policy, if it has been a policy, and start a new one to-day, so that the record of this body that is to be handed down to future generations will reveal the fact that we had prayer in opening this august body.

I have not made my motion merely to apply to the fact that there was prayer, but I have gone further than that, because generations to come should know who delivered the prayer; and so the amendment gives the name of the chaplain who on yesterday offered prayer. The only excuse that could possibly be given by any Senator for voting against my motion is that he is disgusted over the proceedings of yesterday, and that it is such an outrageous piece of legislative monstrosity that the majority is attempting to put over on the country and their methods are so high-handed that they do not think any prayer should be connected with the proceedings of yesterday. If that is the excuse that some Senators may offer for voting against my motion, then well and good; but it is the only one that could be concocted in the fertile mind of any of my friends over on the other side.

Of course I know that the policy of this body has become autocratic. There are some Senators here who were once Progressives and led in progressive movements, and some who were willing to style themselves Bull Moosers—a name which in those days was the synonym of progressive action upon the part of the representatives of the people—but you have changed from that policy and gone back to the old reactionary days of Thomas B. Reed. He was a wise man; he was an able statesman; he was a great apostle of Republican principles; but everyone knows, and history records the fact, that with but one exception the greatest autocrat who ever occupied the chair of Speaker of the House of Representatives was the distinguished ex-Speaker, Thomas B. Reed. He ruled with an iron hand. He wielded a power in that body that destroyed legislation when he willed it or passed it when he directed that it should be passed. In those days he was part of the Rules Committee. Five Representatives in that body composed the Rules Committee, and one of the men on the Rules Committee was the Speaker of the House. Mr. Reed was a part of the Rules Committee, and that committee was more autocratic—and when I say that I am condemning it with all the force I can command—than the steering committee of the Republican majority in this body to-day.

Its actions in legislative matters brought upon the heads of its members and upon the head of the Republican Party the condemnation of the American people. Reedism became an issue from one end of this country to the other. Every campaign orator employed it. You could hardly find representatives of the Republican Party in the western country who believed in progressive principles who would defend it, but enough of the Republican majority were for it to continue it in practice for a while. Why, Cannonism was but the successor to Reedism. Cannonism was fought out a few years later. My distinguished friend from Ohio, the present junior Senator from Ohio [Mr. WILLIS] made speeches, but I have not any idea that he defended Cannonism, although no doubt in that campaign he blew hot and cold, and it was a proposition that politicians were a little afraid to touch.

I am looking now into the face of a Senator, the distinguished junior Senator from Nebraska [Mr. NORRIS], who perhaps had more to do with the overthrow of Cannonism in this country than any other individual in America. He was a Member of the House. He believed in progressive principles. He believed in the liberality of rules. He was against autocracy

and one-man domination, and he led a fight over there. He was helped by the Democratic minority of the House of Representatives in those days. He had but few members of his own party to unite with him, but they were sufficient in numbers, with the Democratic minority, to drive the Speaker of the House of Representatives from his high position and cause him to relinquish that high post. I congratulate him for the great fight he made in those days.

Here we are confronted with a decision of Thomas B. Reed, delivered back there in those reactionary days, when he was voicing the sentiments of reactionism, when he was delivering opinions carrying out the autocratic policies of the House of Representatives as controlled by the then Republican leaders. I do not know whether my friend the distinguished senior Senator from Kansas [Mr. CURTIS] was in the House in those days or not, but he had to fight out in the State of Kansas some years ago this Cannonism issue, this Thomas B. Reedism proposition. He had to do it, because he had fallen into the clutches of the thing in the House of Representatives; and whatever you may say against the distinguished senior Senator from Kansas, you know he is always one of the cogs in the wheels that move the machinery of legislation in any legislative body of which he may be a member, and he was one of the cogs over there in the House in those days when Cannonism and Reedism afflicted this country. But even though he may still indorse his position then and defend his allegiance to Reedism and Cannonism, I serve notice upon him now that he can not revive those old autocratic ways in a popular branch of the Congress of the United States. He may by his eloquence and popularity and pleasing ways and qualities of leadership carry his crowd temporarily astray, as he did this morning, but that is just for the time being. When these men who have sworn allegiance to progressive principles read in the Record to-morrow what they did to-day when they indorsed the action of the Vice President in holding that a motion to adjourn the Senate was not in order they will repent in sackcloth and ashes. So I am not going to accept the movements of my friend this morning as indicating that it will be the future practice of this body to go back to the old days of Reedism and Cannonism.

I hold here some pieces of American literature that will live throughout time. One is the Democratic Campaign Textbook of 1908. The other is the Democratic Campaign Textbook of 1910. I know that Senators in my presence are familiar with almost every line and every clause of them, because in those days you had to familiarize yourselves with their passages in order to combat them before the American people, and some of you, because you did try to answer them, fell by the wayside just temporarily; but that is the way the American people do. When you do not act right they will spank you, and then when you get right and can persuade them with your promises that you are really going to carry out their wishes they may forgive you and let you come back again.

Mr. NEW. Mr. President—

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Indiana?

Mr. HARRISON. I do.

Mr. NEW. The Senator from Mississippi spoke of the volumes which he presents there as romantic in character. I merely rose to inquire if he is presenting them as samples of romance?

Mr. HARRISON. They are romantic in a sense, for once in a while Republican papers become romantic and tell the truth; and I am going to read some of the passages that happened to find their way into the Democratic Campaign Textbook of 1908 that were taken from some Republican literature, and for once these Republican papers told the truth.

For instance, this campaign textbook says:

The shadow of JOE CANNON—

A splendid, fine, stalwart, true American, one whom I am sure, without respect to political parties, we are all sorry to see voluntarily retire from public life. Socially and personally we all love him, but he represented, back in those days, what Reed had represented before—principles that were obnoxious to the American electorate.

I am sorry the Vice President is not in the Chamber. Of course, I do not reflect upon the distinguished senior Senator from Washington [Mr. JONES of Washington in the chair] when I make that statement, because there is no better presiding officer anywhere than the distinguished senior Senator from Washington. He is always fair and courageous and decisive. He has perhaps less of autocracy about him as a presiding officer than any Member on the other side of the aisle. He sometimes votes with the Democrats, and when he does he is always right, and the only time he is ever wrong is when he does not take our advice.

But getting back to the question, I am sorry the Vice President, who made the ruling a few moments ago, is not in the chair, because I wanted to read this to him. He was elected by 7,000,000 majority—many of whom, of course, and more, were sorry for it afterwards—because the voters thought he would not wield an autocratic power, but that he would carry out the liberal campaign pledges of his party. He had presided over the Senate of the State of Massachusetts. He made a splendid record up there, but he never displayed any autocracy in those days. In fact, I have never seen him exhibit it here until to-day, and it was perhaps perfectly excusable, because he fell under the bewitching wand and influence of the distinguished senior Senator from Kansas [Mr. CURTIS]. I almost have to catch myself sometimes for fear that I will fall under it; he is so entrancing and bewitching and amiable. But the idea, in this progressive day when autocrats are being driven from power, of anyone in this body beginning to use that kind of a javelin again!

I find here an editorial from the Odebolt (Iowa) Chronicle. Iowa is still progressive, always has been progressive, is known as one of the most progressive States in the Union, and I know that no one within the sound of my voice would take issue with me in the statement that the State of Iowa is progressive.

I read from a Republican paper of that progressive State a statement about "Cannonism" and "Reedism," which my friend from Kansas, one of the great leaders on the other side of the aisle, is attempting to foist upon this body again. If this Republican paper speaks disrespectfully of my good friend, JOE CANNON, I shall not indorse it. I would not even read anything that was disrespectful of him. I am merely employing it as an argument against the system the majority is attempting again to put in one of the high places of this Government. This editorial says:

Is JOE CANNON to be conceded the speakership in the event of the Republicans carrying the House at the coming election?

That is what this Republican paper says.

This is a pertinent question. Upon the reply, or failure to reply, hang enough votes to determine the election of a President.

Let us treat CANNON charitably, if you will, as charitably as his best friends would treat him, and what must be said of him?

He is the most inveterate foe of Roosevelt policies—

I shall not discuss that part of it. I will drop a little.

What happened during the last session of Congress? Under an abominable system which began with Tom Reed, and was later reduced to a science by CANNON, the Speaker of the House played the part of an autocrat.

Could I have a better witness to prove that that was a part of the system that the Republican press of the country, in those days, built as a species of autocracy that could not be defended? These utterances have not been this soon forgotten, and this has been 10 or 12 years ago. If they have lived this long, they will probably live longer. Yet my friend the Senator from Kansas is trying to invoke a practice here which was condemned by a great Republican paper just over the border in the State of Iowa, likening the Cannon tactics to the Tom Reed tactics, and the action of my friend this morning is merely an indorsement of the old tactics of Reed and CANNON.

I did not finish this article. I will read more of it:

Nero's fiat was never more absolute than CANNON's decision for or against legislation. When Roosevelt recommended legislation with the approval of nine-tenths of the votes of this country, CANNON tilted his cigar and tersely announced that he opposed it and therefore it could not be considered. When it was absolutely certain that a majority of the members of both parties in the House and Senate desired the passage of a bill abolishing duties on wood pulp and printing paper—

Mr. CURTIS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Kansas?

Mr. HARRISON. Always.

Mr. CURTIS. Does not the Senator know that his side is trying to do now just what that paper charged that CANNON tried to do—that is, prevent legislation?

Mr. HARRISON. No; we are discussing propositions which are of great moment to the American people. We are fighting a revival of autocratic methods in this body, and I thought I was making a very eloquent speech against it.

Mr. CURTIS. I want to state to the Senator that I believe if the Senate would adopt rules which would shut off dilatory motions and shut off debate not directed to the subject before the Senate, adopting rules by which we could go on and do business, it would be applauded by every paper, Republican and Democratic, from coast to coast and from the South to the Lakes.

Mr. HARRISON. Mr. President, if I have accomplished nothing else, I have caused the opinion of the Senator from Kansas to be changed. I am glad he is coming around to my way of

thinking and becoming a liberal in this body. I accept the apology of the distinguished Senator from Kansas.

In this same remarkable campaign textbook I find this:

How the Speaker controls the House.

I am going to read it, so that we can refresh our memory of those days. It reads:

It is because of the rules of the House and the autocratic disposition of the Speaker that the will of the people is not carried out in legislation.

The Speaker is permitted to name all the committees in the House. He designates as chairman of each committee a man who will follow his direction and control, as nearly as may be, the action of the committee in all matters submitted to it. The Speaker expects the chairman to see to it that no bill is reported from the committee that does not meet the Speaker's approval.

Here is what a Republican said about it, a great progressive Representative from the State of Wisconsin. If it was not good, it would not be in this book. This is the statement of Mr. COOPER of Wisconsin, who now graces a seat in the other body, one of the oldest Members in the House of Representatives in point of service. Of course, he never would allow himself to be shackled by those who controlled the leadership of that body. He always spoke out and declared himself, and this is one of his memorable utterances, and he received the indorsement of his people. He said:

I agree with the gentleman from Mississippi—

Mr. WILLIAMS had then spoken—

that there is altogether too much power concentrated in the Speaker of the House of Representatives. It is more power, gentlemen, than ought to be given any man in any government that pretends to be republican in form and democratic in spirit.

It was such utterances as these upon the part of progressive Republicans, together with the great fight made by the united democracy of the country, that forced Cannonism from its high place in the Government service and created a system over there in the House under which the committee on committees makes the appointments on committees and under which this committee is chosen, not by the Speaker but is elected by all the representatives of the American people.

It is not out of place for me to say that it was only after the fight led by the present distinguished Senator from Nebraska [Mr. NORRIS] and my friend here, the leader of the Democrats to-day in the Senate, the senior Senator from Alabama [Mr. UNDERWOOD], and other distinguished Democratic Senators on this floor and in the country, who were then Members of that body, that we drove from power Cannonism, which meant nothing more or less than "Reedism," and as soon as they took control they took away from the Speaker the power to name committees, and the Representatives selected a committee to make the appointments to the various committees in the House. It was such a progressive movement upon the part of the representatives of the American people that the Republicans adopted our tactics and followed our procedure, and the practice has worked so well that it still holds good in the House of Representatives.

I can show how practically the same thing has been done in this body. The old order of things, the autocracy holding high places and dominating the proceedings of the Senate, has been changed and the Senators elect for themselves the committees to transact the public business. We had thought that gag rules and "Reedism" and "Cannonism" and autocracy had been dethroned, but when such a leader as the distinguished Senator from Kansas, who is recognized not only in this body but throughout the country as one of the spokesmen for the majority in matters of procedure and legislation, takes the position he did this morning, to try to resurrect and revive "Reedism" in this body and through his charming eloquence persuades the Presiding Officer to rule as he did, then it behooves some of us to speak out and give notice to the American people what is about to happen again.

I can read many other very convincing statements from this book. For instance, it is said on this page:

The way to get rid of Cannonism is to get rid of CANNON.

It says, however—Mr. Busby, private secretary to Speaker CANNON, is quoted. He knows, and this campaign textbook quotes from Mr. Busby. Let us see what he says about Cannonism. I do not think I have read this, so it is going to be information to me as well as to my friend from Kansas:

As a final stroke the chairman said: "Then, Mr. Speaker, this bill is to fail by the will of one man, who is in the chair by our votes. We have no redress from this one-man power." "Yes, you have," replied the Speaker.

He was talking about Speaker CANNON then.

You have a way to pass your bill. You placed me in the chair to shoulder the responsibility of the legislation here enacted. In my view I can not assume the responsibility for this bill. You can elect a new Speaker to-day and pass your bill, if you can find one who will accept that responsibility; but if you leave me in the chair that bill will not become a law.

Mr. Busby, private secretary to Mr. CANNON in those days, was relating an incident between one Member of the House and the Speaker of the House touching the passage of legislation. That was the way autocracy enshrouded itself during the days of Reedism and Cannonism.

Now, Mr. President, the hour of 2 o'clock has arrived, much to my regret, because I wanted to read some other interesting passages, which I am sure the country, if not Senators on the other side, would be interested in hearing. Here Senators are trying to storm a fortress and pass what they say is a great and important piece of legislation, so that they can go back to the colored population in their respective States and say, "Look what we did." Yet, as I now scan the other side of the Chamber, I see 54 vacant seats over there which ought to be occupied by 54 Republican Senators, all of whom will try to make their constituents believe they were doing all in their power to enact the bill into law. Here the issue is before the Senate, and 54 of them have deserted their posts and refused to stay here and join hands with the 3 on the other side who are here to pass legislation—4, I should say, because I did not count the Presiding Officer. If their constituencies, who are interested, as Senators on the other side believe, in this proposed legislation, should look down from the galleries now on the other side of the aisle and see the 54 vacant seats of their 54 Senators who are away from duty when this important matter is being considered, they would be humiliated as well as disgusted.

I ask for the yeas and nays on the important amendment which I have offered and which I want to state again, so there will be no confusion about it.

Mr. CURTIS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Kansas?

Mr. HARRISON. Certainly.

Mr. CURTIS. If the Senator would ask unanimous consent, there would be no objection to amending the Journal as he suggests.

Mr. HARRISON. But I want to put Senators on record to see if there is a single Senator who will vote against incorporating in the Journal, the record of this body, the fact that we had prayer yesterday, even though the proceedings may be obnoxious and humiliating.

On my motion I ask for the yeas and nays.

Mr. UNDERWOOD. If the Senator will allow me, there is not a quorum present. I think a quorum should be here to vote on the important proposition. I make the point of order that there is no quorum present.

The PRESIDING OFFICER. There has been no business transacted since the last call for a quorum was made.

Mr. UNDERWOOD. I think that is very unfortunate, because there are so few here, but we will ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Mississippi moves an amendment of the Journal in the manner designated by him, and the yeas and nays are demanded.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. BROUSSARD (when his name was called). I am paired with the Senator from New Hampshire [Mr. MOSES]. I transfer that pair to the Senator from Arizona [Mr. ASHURST] and vote "yea."

Mr. FERNALD (when his name was called). I have a general pair with the senior Senator from New Mexico [Mr. JONES]. On this matter I am not informed as to how he would vote, so I withhold my vote.

Mr. STANLEY (when his name was called). I transfer my general pair with the junior Senator from Kentucky [Mr. ERNST] to the senior Senator from Texas [Mr. CULBERSON] and vote "yea."

Mr. SUTHERLAND (when his name was called). Making the same announcement as before with reference to my pair and its transfer, I vote "yea."

Mr. WATSON (when his name was called). Making the same announcement as before with reference to my pair and transfer, I vote "yea."

The roll call was concluded.

Mr. GLASS. Transferring my pair to the junior Senator from Rhode Island [Mr. GERRY], I vote "yea."

Mr. HALE. I transfer my pair with the senior Senator from Tennessee [Mr. SHIELDS] to the junior Senator from Nevada [Mr. ODDIE] and vote "yea."

The result was announced—yeas 49, nays 8, as follows:

YEAS—49.

Ball	Caraway	Elkins	Glass
Broussard	Curtis	Fletcher	Gooding
Capper	Dial	France	Hale

Harreld	McLean	Rawson	Sutherland
Harris	McNary	Reed, Mo.	Townsend
Harrison	Nelson	Reed, Pa.	Underwood
Heflin	New	Sheppard	Warren
Jones, Wash.	Nicholson	Simmons	Watson
Ladd	Page	Smith	Weller
La Follette	Pepper	Smoot	Willis
Lodge	Pittman	Spencer	
McKellar	PoinDEXter	Stanfield	
McKinley	Ransdell	Stanley	

NAYS—8.

Cummins	Kellogg	Philps	Wadsworth
Frelinghuysen	Norris	Sterling	Walsh, Mont.

NOT VOTING—38.

Ashurst	Edge	King	Pomerene
Bayard	Ernst	Lenroot	Robinson
Borah	Fernald	McCormick	Shields
Brandegge	George	McCumber	Shortridge
Bursum	Gerry	Moses	Swanson
Calder	Hitchcock	Myers	Trammell
Cameron	Johnson	Norbeck	Walsh, Mass.
Cott	Jones, N. Mex.	Oddie	Williams
Culberson	Kendrick	Overman	
Dillingham	Keyes	Owen	

So Mr. HARRISON's motion to amend the Journal was agreed to.

Mr. UNDERWOOD. I move that when the Senate adjourn to-day it be to meet on Friday next at 12 o'clock noon, and on that motion I demand the yeas and nays.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. BROUSSARD (when his name was called). Making the same announcement as before, I vote "yea."

Mr. FERNALD (when his name was called). I have a general pair with the senior Senator from New Mexico [Mr. JONES]. Not knowing how he would vote on this question if present, I am obliged to withhold my vote.

Mr. GLASS (when his name was called). I transfer my pair with the Senator from Vermont [Mr. DELINGHAM] to the Senator from Louisiana [Mr. RANDELL] and vote "yea."

Mr. STANLEY (when his name was called). Making the same announcement as to my pair and its transfer as on the previous ballot, I vote "yea."

Mr. SUTHERLAND (when his name was called). Making the same announcement as to my pair and its transfer as heretofore, I vote "nay."

Mr. WATSON (when his name was called). Making the same announcement as heretofore with regard to my pair and its transfer, I vote "nay."

The roll call was concluded.

Mr. HALE. Making the same announcement as heretofore with regard to my pair and its transfer, I vote "nay."

Mr. EDGE (after having voted in the negative). I transfer my regular pair with the Senator from Oklahoma [Mr. OWEN] to the senior Senator from California [Mr. JOHNSON], and allow my vote to stand.

The result was announced—yeas, 28; nays, 35—as follows:

YEAS—28.

Bayard	Glass	Myers	Simmons
Broussard	Harris	Norris	Smith
Caraway	Harrison	Overman	Stanley
Cummins	Heflin	Pittman	Swanson
Dial	Hitchcock	Pomerene	Underwood
George	Ladd	Reed, Mo.	Walsh, Mass.
Gerry	McKellar	Sheppard	Walsh, Mont.

NAYS—35.

Ball	Lodge	Pepper	Sterling
Brandegge	McCumber	Philps	Sutherland
Curtis	McKinley	PoinDEXter	Townsend
Edge	McLean	Rawson	Wadsworth
Frelinghuysen	McNary	Reed, Pa.	Warren
Hale	Nelson	Shortridge	Watson
Harreld	New	Smoot	Weller
Jones, Wash.	Nicholson	Spencer	Willis
Kellogg	Page	Stanfield	

NOT VOTING—32.

Ashurst	Dillingham	Jones, N. Mex.	Norbeck
Borah	Elkins	Kendrick	Oddie
Bursum	Ernst	Keyes	Owen
Calder	Fernald	King	Ransdell
Cameron	Fletcher	La Follette	Robinson
Capper	France	Lenroot	Shields
Cott	Gooding	McCormick	Trammell
Culberson	Johnson	Moses	Williams

So the Senate refused to adjourn until Friday next.

Mr. HARRISON. Mr. President, I note that the Journal of yesterday states at the beginning that the Vice President being absent the President pro tempore took the chair. The next mention of the occupant of the chair is that the Vice President resumed the chair immediately before a vote was taken. The Journal, however, does not state exactly at what time the Vice President resumed the chair or when the President pro tempore of the Senate relinquished the chair. It is most important that the Journal should state just when the Vice President took the chair and when the President pro tempore relinquished the chair. So I move that the Journal be amended

to show that fact; and on that motion I ask for the yeas and nays.

The VICE PRESIDENT. The Chair does not exactly understand what the motion is.

Mr. HARRISON. I am sorry that I did not express myself more clearly.

The VICE PRESIDENT. What does the Senator move that the Senate shall do?

Mr. HARRISON. Although the Journal did not show that a prayer was delivered, the Senate has very wisely agreed to insert the prayer; but it does show that, the Vice President being absent, the President pro tempore took the chair. That is splendid; that is fine. The Journal proceeds to the point where a vote was taken and it shows that the Vice President was then in the chair; but the Journal does not show just when the Vice President took the chair and when the President pro tempore relinquished the chair. That fact is very important and should be noted in the Journal.

The VICE PRESIDENT. What does the Senator move?

Mr. HARRISON. I have moved that the Journal be amended so that the exact time, as far, of course, as human frailties can ascertain it, be placed in the Journal when the Vice President assumed the chair.

Mr. POINDEXTER. Mr. President.—

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Washington?

Mr. HARRISON. I yield to the Senator.

Mr. POINDEXTER. I ask unanimous consent that the correction of the Journal suggested by the Senator from Mississippi be made.

Mr. McKELLAR. I object.

Mr. HARRISON. Mr. President, the force of the suggestion I am making is demonstrated when a Senator on the other side reinforces my argument and speaks in behalf of the amendment which I seek to make to the Journal. So I ask for the yeas and nays upon the amendment.

The VICE PRESIDENT. The Chair is unable to state the motion.

Mr. HARRISON. Perhaps the Secretary may be able to state it. He probably understands it thoroughly. I thought I explained it satisfactorily.

The VICE PRESIDENT. The Chair may be in error; but the Chair assumes that when a Senator moves to amend the Journal he has to state what changes he wishes to have made in the Journal.

Mr. HARRISON. I will make the motion in this way: That somewhere in the Journal between the place where it states that the Vice President was absent and the President pro tempore was in the chair and the place where it states that the Vice President resumed the chair, it shall state "at approximately 1 o'clock"—because the Journal should speak accurately; and I recall yesterday it was somewhere about that time when the Vice President took the chair—"at approximately 1 o'clock p. m. the Vice President came into the Senate Chamber and took the chair."

The VICE PRESIDENT. On this question the yeas and nays have been requested and ordered. The Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. WILLIS. Mr. President, I desire to be heard.

Mr. HARRISON. A point of order, Mr. President. The roll call has been started.

Mr. TOWNSEND. I submit that there has been no response.

The VICE PRESIDENT. The Chair will have to rule that there has been no response. The Senator from Ohio has the floor.

Mr. WILLIS. Mr. President, I certainly shall not lend myself to the filibuster against the antilynching bill which has been going on here for a couple of days, and therefore shall occupy but a very few minutes; but I want, in the time I am on my feet, to call the attention of the country, so far as I may, to the situation as it now confronts the Senate.

My experience here has been very limited; but so far as my observation goes, and so far as my reading of history has gone, it has not disclosed heretofore in the parliamentary history of this country such a situation as is now presented.

In order that the Record may contain for convenient reference in one place the statements that were made by the distinguished leader on the other side, I propose to read some of the things that he said yesterday. Before I do that, I want to commend him for his entire frankness. The same thing could not be said of all of those who are filibustering to prevent a vote on the Dyer antilynching bill. The leader, the Senator from Alabama [Mr. UNDERWOOD], was perfectly frank. He announced that it was a filibuster, announced what the purpose

of it was, and stated that he and his party assumed full responsibility for it. That frankness is characteristic of the Senator, and certainly is most commendable.

He said, in part, yesterday:

We are not disguising what is being done on this side of the Chamber. It must be apparent, not only to the Senate but to the country, that an effort is being made to prevent the consideration of a certain bill, and I want to be perfectly candid about it. The bill is known in the RECORD as the Dyer bill, I believe; I have forgotten its number.

Then the Senator went on with his usual clarity and eloquence to state that which nobody doubted, that he was, of course, opposed to mob violence.

Then, farther down, he says:

I think that if the bill became a law it would threaten the very fabric of our Government, and it is not going to become a law at this session of Congress.

I do not say that captiously. I think all men here know that under the rules of the Senate when 15 or 20 or 25 men say that you can not pass a certain bill, it can not be passed. You could not pass your tariff bill last summer until we agreed to vote on it, and you are not going to get an agreement to vote on this bill. It is perfectly apparent that you are not going to get an agreement to vote on it. If you should change the rules, and adopt a cloture rule under which the majority would have a right to cut off debate, the majority could pass any bill they wanted to.

The Senator from Tennessee [Mr. McKELLAR] thereupon interrupted to say:

They could not do it at this session.

Then the Senator from Alabama concluded by saying:

They could not do it at this session, of course, and under the rules of procedure in the Senate this is an impossible proposition.

Then, a little bit later on, so as to make it perfectly clear where the responsibility for this situation lies, the Senator from Alabama said:

I want to say right now to the Senate that if the majority party insist on this procedure they are not going to pass the bill, and they are not going to do any other business. There are a large number of men whose names have been sent to the Senate, who have been appointed to important offices, and who are entitled to confirmation, and who ought to be confirmed; but they are not going to be confirmed; we are going to transact no more business until we have an understanding about this bill.

Later on in the discussion the distinguished Senator from North Carolina [Mr. SIMMONS] rose in his place and interrupted the Senator from Alabama to say that in his judgment, after talking with a great many Senators on the other side of the Chamber, he was of opinion that the position of the Senator from Alabama was absolutely the attitude of the Senators on the other side of the Chamber.

In other words, it was then and there clearly stated that it was the definite purpose of Senators on the other side of the Chamber—that it was the policy of the Democratic Party—not only to prevent the enactment of this legislation, but even to prevent its consideration. It is not sufficient for Senators to say that they are opposed to this provision of the bill or that provision of the bill when they do not have the courage even to permit a discussion of the bill.

Mr. President, there is no occasion for heat or excitement about this matter, or for some of the bitterness or sectionalism that was manifested yesterday. It is simply a cold proposition that is put up to the Senate as to whether the Senate of the United States can or can not do business. Here is a majority on this side of the aisle, and they are told, and correctly told under the rules as they stand now, that a minority of 15 or 20 or 25 propose to say to the Senate that no business can be transacted.

As I said when I rose in my place, I commend the Senator from Alabama for his courage and his frankness; but I want to state to the Senate that the time is coming, and I think it is here now, when the Senate will have to work out some method whereby it can transact business. If it does not reform its methods of procedure so that a majority in the Senate can express its will, the people of the country will find out a way to reform the Senate. In other words, we are face to face with a condition that in my judgment demands such a readjustment and amendment of the rules of the Senate as will permit the business of the people of the country to be transacted and not put it within the control of a small minority to say to the majority, "Not only shall you not pass this bill but you shall not discuss it, you shall not consider it, you shall not take it up for examination."

That is the situation to which I wish to call attention—that it is the policy of the Democratic Party, for which the distinguished Senator from Alabama and the distinguished Senator from North Carolina so ably speak and which they so ably lead, not only to defeat this legislation but absolutely to prevent any consideration of it; and under the rules they can do it and are doing it.

I said I regretted the note of bitterness and sectionalism that was interjected. I think there is no occasion for that, because

it is lamentably true that the crime of lynching is not peculiar to any section of this country. Lynchings have occurred in very many of the States; but I was sorry to hear the statement made by the Senator from Tennessee [Mr. McKELLAR] in which I think he was misled as to the facts, because in some heat he said, at page 338 of the RECORD, in part:

Some of the worst lynching crimes that have ever occurred in this country have occurred in States of the North.

I have no objection to that statement. I think that is true. Then the Senator from Tennessee went on to say:

They are getting to be more prevalent in the North in comparison to the total population, than in the South.

I doubt whether we get far in promoting the interests of the country by going into a discussion of that kind. I simply want to say to the Senator from Tennessee that he is absolutely mistaken in that statement; that if he will take pains to look at the figures he will find that he is entirely wrong, and I know that he wants to be fair.

Mr. McKELLAR. Mr. President, of course I want to be absolutely accurate. I shall be very glad if the Senator will put in the RECORD the figures of the various lynchings in the country, so that we can see just exactly what they are. If he has the figures, let them show what the facts are.

The Senator will recall that there have been a number of lynchings in Ohio and Illinois and other Northern States, where great cruelty was exhibited by those who did the lynching. I hope he will put the figures in the RECORD, also the figures of the colored population, so as to show the exact facts, so that there can not be any controversy about them.

Mr. WILLIS. Mr. President, my attention was drawn to the inaccuracy of the Senator's statement first from a study of the report on this bill. I think, if I may have permission, in response to the Senator's suggestion, I will incorporate in my remarks at this point a paragraph at the top of page 5 of the report which will shed some light on the subject. If I have that permission, I shall incorporate that in my remarks without reading it.

Mr. McKELLAR. Inasmuch as it is to be used in contradiction of something I have said, I should prefer that the Senator read it.

Mr. WILLIS. All right; I will read the paragraph.

Mr. McKELLAR. I want to make this suggestion to the Senator—

Mr. WILLIS. Will the Senator permit me to read this paragraph, so that it will appear where it should be?

Mr. McKELLAR. Certainly.

Mr. WILLIS. I am reading from the committee report:

In the 30 years from 1889 to 1918, 3,224 persons were lynched, of whom 2,522 were negroes, and of these 50 were women. The North had 219; the West, 156; Alaska and unknown localities, 15; and the South, 2,834, with Georgia leading with 386 and Mississippi following with 373. Yet in Georgia negroes paid taxes on 1,664,368 acres, and owned property assessed at \$47,423,499. Of the colored victims 19 per cent were accused of rape and 9.4 per cent of attacks upon women. In the year 1919, 77 negroes, 4 whites, and 2 Mexicans were lynched. Ten of the negroes were ex-soldiers; one was a woman. During 1920 there were 65 persons lynched; 6 were white and 59 were negroes; 31 were hanged, 15 shot, 8 burned—

I pause there to say, Mr. President, that this is the only country in the world that pretends to be civilized that permits burnings at the stake; and yet when legislation is proposed, when it is sought to bring to officials and to communities, whether they are North or South or East or West, a sense of their responsibility in that matter, Senators cry out about the rights of the States and about the liberties of the people. What State or what people have any right to take the life of a man contrary to the law and to burn him at the stake?

But I read further from the report:

Two drowned, 1 flogged to death, and 8 in manner unknown; 24 were charged with murder, 2 assault on woman, 15 attack on woman, 3 insulting woman, 1 attempted attack on woman, 1 attack on boy, 1 stabbing man, and 3 assaulting man.

I think that is all in the paragraph that refers to the matter; and since the Senator from Tennessee has suggested that I point out the figures, I have done so. I should not have introduced such a subject if he had not made a statement which was so inaccurate.

Mr. McKELLAR. Mr. President, will the Senator give us the figures as to the relative colored population in those various sections of the country?

Mr. WILLIS. I have not those figures before me. I have no objection at all to the Senator getting them and putting them in the RECORD.

Mr. McKELLAR. Of course the accuracy of the statement can not be determined unless we have the relative figures as to the colored population.

Mr. WILLIS. Of course, Mr. President, that is not the point, because these lynchings have occurred amongst the white population as well as the colored population.

Mr. WATSON. Mr. President—

Mr. WILLIS. I yield to the Senator from Indiana.

Mr. WATSON. The difference between the two Senators, as I understand, is this—that however many of these lynchings may occur in the North, whether there be few or many, whether there be one or a thousand, we are entirely willing that legislation shall be enacted to prevent them in the future.

Mr. WILLIS. We are asking for such legislation.

Mr. WATSON. While however many may occur in the South, whether few or many, they are unwilling that any legislation of this kind shall be passed to prevent that crime in the future, which is the difference between the two sections.

Mr. McKELLAR. Yes, and there is another difference—that we are upholding the Constitution of the United States, and Senators over on the other side are going contrary to the express provisions of the Constitution of the United States.

Mr. CARAWAY. Mr. President, will the Senator from Ohio yield to me just for one moment?

Mr. WILLIS. I yield to my friend from Arkansas for a question.

Mr. CARAWAY. I just want to show how inaccurate the Senator from Indiana is. Ordinarily he is absolutely letter-perfect on any statement, and I think a very great deal of him; but this bill that you are championing does not propose to punish anybody for the peculiar kind of lynchings you have in your section. You say that if a man is lynched for having committed a crime, then the Federal Government shall have jurisdiction, but if you kill him because he wants to work in a mine, or as you did in Indiana when you had your riots, or in East St. Louis when you had your negro riots, that is all right. In other words, it is a crime to kill a man if he is guilty of a crime, but it is no crime if you kill an innocent man. That is the result of the language of your bill and if the Senator will take the time to read it before he eulogizes it, he will discover it is not attempting to try to punish the kind of crimes that prevail in his section; that is, where you lynch a man simply because he is black, as they did in Springfield, Ohio, and as they have done in Illinois, as they did in East St. Louis, or, as they did in Marion, Ill., kill him because he wanted to work. But you want to make it a crime to kill a negro who assaults a woman; but it is no offense, under this bill, if you kill 40 men who simply want to make a living for their wives and children. That is the difference between the two sections.

Mr. WILLIS. I prefer to have my friend from Arkansas and my friend from Indiana carry on their discussion in their own time.

Mr. CARAWAY. If the Senator will pardon me, inasmuch as we were all engaging in the filibuster, and the Senator from Ohio has already aided us 30 minutes, I thought he would not object. We are in one common cause, the winning of the filibuster.

Mr. WILLIS. The Senators can arrange that matter in their own time.

Mr. CARAWAY. Very well.

Mr. WILLIS. I started to give the facts to the Senator from Tennessee, who seemed to be very much in doubt about some matters.

Mr. McKELLAR. I am not in doubt at all about these matters.

Mr. WILLIS. I wanted to put it charitably. I will say he was wrong. I will state the bald fact, he is absolutely wrong. But since the interruption has been made by my friend from Arkansas, I should like to make this suggestion: If the bill does provide as the Senator from Arkansas suggests—a matter which I very much doubt—then let us act like men, take up the bill and amend it. If this bill is so drawn as not to apply to every section of the country, then it ought to be amended in that particular, and I will vote for an amendment along that line. But the trouble about Senators on the other side is that they will not permit a consideration of the bill, even an opportunity to offer amendments. That is what I am pleading for, the opportunity to take up the bill and perfect it and make it right if it is not.

To come back to my friend from Tennessee, to show how far he was from the facts, I will read his statement in the RECORD. As I say, I should not have thought of replying to this phase of the matter if he had not made the statement, because I do not think the question of place enters into the matter at all. If there have been lynchings in Ohio—and I hang my head in shame and have to admit that there have been—then those guilty of the crime ought to be punished. If there have been

lynchings in Arkansas, or anywhere else, those participating ought to be punished. So it is not a matter of the State.

Mr. McKELLAR. May I ask the Senator if those lynchings in Ohio have been punished?

Mr. WILLIS. So far as I know, they have been. I have not made it my business to follow up the cases. But regarding the statement of the Senator, I want to fix him up on that. He said:

They are getting to be more prevalent in the North, in comparison to the total population, than in the South.

Let us see whether that is true. I looked up the figures in the World Almanac, a nonpartisan, or bipartisan or omnipartisan, publication. I took, for example, the State of the distinguished Senator who made the statement. The great State of Tennessee has a population, according to the World Almanac, of 2,337,000. The State of Indiana is nearly the same size, somewhat larger, with a population of 2,930,000. The Senator said in his statement yesterday that, according to the population, lynchings were becoming more prevalent in the Northern States.

Mr. McKELLAR. Of course, the Senator knows I meant in proportion to the colored population.

Mr. WILLIS. I understood the Senator to mean just what he said and what he put in the RECORD.

Mr. McKELLAR. If the Senator just misconstrues my remarks and is undertaking to make an argument based on something I did not say, well and good. I do not think anybody else understood me to say it. Of course, I meant in comparison to the colored population in the various States. No one would have made the statement that they were greater in comparison to the population of the whole country. No one put that construction on it except the Senator from Ohio.

Mr. WILLIS. Of course, if the Senator wants to disavow it, all well and good.

Mr. McKELLAR. I am not disavowing it at all. I am saying just what I said, that in accordance with the colored population they are more prevalent.

Mr. WILLIS. I read it to the Senator. If he has the RECORD let him turn to page 338 and read it. The Senator said:

They are getting to be more prevalent in the North, in comparison to the total population, than in the South.

That is the Senator's language. If he wants to crawl and get away from it, all right.

Mr. McKELLAR. I was talking about the colored population, and everybody understood it that way. Nobody took exception to it, and nobody takes exception to it now, I am sure, except the Senator from Ohio.

Mr. WILLIS. Mr. President, I decline to yield for the Senator to make a speech he thought he was going to make, but which he did not make. I am answering the speech he made. If he crawls away from it now, that is his lookout.

I have given the population of those two States. In his State during this period, according to this publication, the World Almanac, page 720, from 1885 to 1920 there were 198 lynchings, whereas in the State of Indiana, a larger State, there were 31, about one-sixth of the number.

In Alabama, with a population of 2,348,000, there were 260 lynchings. In Wisconsin, with a population of 2,632,000, there were 5. So there were more than fifty times as many in the southern State.

In Mississippi, with a population of 1,790,000, there were 400 lynchings. In Kansas, with almost the same population, 1,679,000, there were 37; less than one-tenth of the number that occurred in Mississippi.

In Georgia, with a population of 2,895,000, there were 528 lynchings. In Iowa, with a population of 2,404,000, there were 10.

In Texas, with a population of 4,663,000, there were 304 lynchings, and I am ashamed to say that in the State of Ohio, with a population of 5,759,000, there were 20 lynchings.

I have only referred to this because I want to get my friend the Senator from Tennessee straight, and call attention to this fact that it is not a sectional matter, it is not a racial matter, but it is a matter which, in my judgment, goes to the very life of this Republic. Either we shall have in this Republic orderly liberty, regulated by law, or else we shall descend to the weltering chaos of the mob.

I think this pending bill is a good bill. I think it is constitutional and that it ought to become a law. I think it will aid in the eradication of this frightful danger to free institutions and this burning shame to the American Republic. At all events, it seems to me the part of courageous, honorable men is to permit this bill to come before the Senate. Then, if it develops that amendments should be made, we can make the amendments.

So I say in conclusion that I think, first, the thing that is before the Senate now is the question as to whether the Senate is going to transact business or whether it will permit itself to be controlled by a minority. Second, whether by passing the antilynching bill it is willing to take this step in the direction of the maintenance in this country of free civilized government as distinguished from mob violence. I am for the law and against the mob.

Mr. NEW. Mr. President, I desire to address myself very briefly to the bill before the Senate and to the situation with which we are at this moment faced.

Long before I became a Member of this body I was convinced that some such measure as the Dyer bill was absolutely necessary if we are ever going to emerge from the condition, not of semibarbarism but of complete barbarism, under which we rest so long as we permit the perpetration of such crimes as have been enacted within recent years, both in the South and in the North. Like the Senator from Ohio [Mr. WILLIS] I do not mean to make this a sectional matter at all. I absolutely disavow any such purpose. I would be for the passage of the bill if there were not a colored man in the United States. I would be for it because I believe it is absolutely necessary to the credit of this people as a Nation that we stop these outrages. There is no country in the world to-day that is regarded as even as halfway civilized in which such outrages occur as are reported with almost weekly regularity from sections of the United States. I must say that they predominate in the South, as everyone knows, and for reasons which are peculiar to the South, of course. But wherever they are, they should be stopped, and if they can not be stopped under the laws of States, made in conformity with the sentiment of their respective communities, they should be stopped by Federal legislation.

The question of the constitutionality of this bill has been brought in question. Senators on the other side who are opposing it assert that it is unconstitutional. If I believed it were unconstitutional, certainly under my oath I would not vote for it or stand here advocating its passage. I do not believe any such thing. I do not believe the Constitution of the United States ever contemplated that sort of crime at which the bill is aimed—I mean the crime of lynching—should be perpetrated in the United States without let or hindrance.

The Constitution of the United States contains a provision in the fifth amendment that no citizen shall be deprived of his life or liberty without due process of law, and yet men are deprived of their lives, and deprived of them by methods that are most shocking, most revolting, and not to be tolerated anywhere in any civilized land.

Mr. CARAWAY. May I ask the Senator a question?

The VICE PRESIDENT. Does the Senator yield to the Senator from Arkansas?

Mr. NEW. I yield for a question, yes; but not for anything but a question. The assertion has been made that there have been lynchings even in my own State. It is lamentably true. I was myself an eyewitness to the concluding scenes of one in the days when I was a newspaper reporter, long ago, and the impression the incident made upon me has rested in my mind ever since. It was a white man who was lynched; and I think that if a man's life should be forfeited under the laws for a crime committed, that man's life should have been forfeited; but it should have been forfeited by due process of law, as it was not.

I regret to say, too, because I anticipate the question, that no one was ever punished for the crime. An attempt was made to ascertain who was responsible for it, but beyond the fact that from 50 to 75 people congregated, seized the man, took him from a jail, took him out and hanged him, and riddled his body with bullets, nothing was ever known as to who the individuals were.

I also witnessed another attempt at lynching, which was frustrated by a courageous sheriff and a half dozen courageous deputies, who threatened to empty a lot of sawed-off shotguns into a crowd if they did not disperse—and they would have done it.

But the question of locality has nothing to do with it. It is the question of right and wrong, a question as to whether this country will permit itself to longer labor under the just criticism that attaches as the result of permitting the continuance of this sort of thing, or whether it shall be discontinued, by whatever means it may be found necessary to stop it.

Much has been said about the autocratic methods of the Senate. Nobody in this body holds the leader of the minority in greater respect than I do. I have for him a genuine feeling of personal affection as well as the highest possible regard for him both as a gentleman and as a legislator. But, Mr. President, what can be more autocratic than for the leader of the

minority to stand before the majority and say to us, "You shall not legislate upon this question."

The Senator from Alabama in the course of his remarks said that we were injecting the bill into these proceedings. I find by consulting the record that the bill has been on the calendar since the 28th day of last July. True, it was not made the unfinished business of the Senate, but it was given a place in exact accordance with the custom of the Senate. It appears just as every other bill comes before this body. What does it displace? It is said that appropriation bills will be held up in order that consideration of this bill may not be had.

Why, sir, the appropriation bills are not even here. They have not passed the House. They are not before the Senate at all. Neither is there anything else before the Senate that is of crying importance. We are simply deferring all legislation because this one piece of proposed legislation is objectionable to a minority.

Now, Mr. President, the Senator from Ohio [Mr. WILLIS] spoke also of what we were unable to do under the rules which govern this body. There are many Senators here who view with much apprehension any change in the rules of this body which shall curtail debate. But, sir, this is the thing, this attitude of a minority, which is going to compel a change in the rules governing the Senate, whether there be those among us who may be regarded as ultraconservative and do not want to see those changes or not. Public sentiment, as a result of this kind of opposition and obstruction, is going to require such a modification of the rules as will permit the Senate at least to perform the public business.

The Senator from Arkansas [Mr. CARAWAY] said that the bill does not cover lynchings in the North. That is begging the question. If it does not, it is the privilege of the Senator from Arkansas to move any amendment that may be required to make the bill meet his views, to make it meet the situation that may be presented as the result of a crime committed in some State other than his own. That is the course that must be taken as to every measure that comes before this body. No one of them, perhaps, suits every Senator in its original form, and it is in order that the bill may be amended, that it may have due consideration, that we are trying to bring it up at this time. As I have said, I am heartily in favor of its passage, because I believe it is necessary to enforce the clear provision of the Constitution of the United States—that provision which guarantees to every man that he shall not be deprived of life or liberty without due process of law.

Mr. President, our newspapers are filled with reports of Armenian atrocities. In our churches nearly every Sunday the pulpits ring with appeals to the American people for aid for those who are the victims of outrages at the hands of the Turk. We have public meetings to denounce the pogroms in Russia. We send missionaries to those countries to educate against the perpetration of that sort of crime. And yet, Mr. President, nowhere in the world have outrages more dastardly been perpetrated than on the Continent of America and within the confines of the United States. I say that with shame and mortification as an American citizen. Some way must be found within the limits of the Constitution of the United States to stop this sort of thing if we are not to be justly condemned by all the other peoples of the world. I am in favor of the passage of the Dyer bill.

Mr. CARAWAY. Mr. President, I presume all our purposes are the same. Some of us frankly announce them and others seek to conceal. We are all engaged in a filibuster. The Senator from Alabama [Mr. UNDERWOOD] announced for this side of the Chamber that as our purpose until this measure should be laid aside. The Senator from Ohio [Mr. WILLIS] stopped a roll call that he might read into the RECORD nearly everything which was said yesterday, so that, without being put to the trouble of thinking up anything original to say, he could consume nearly an hour of the time of the Senate. Personally I have no objection to his doing it, and while I know that he will know that I am not critical of him, I sometimes think what he reads expresses more than what he says of his own invention. Then the better part of his speech this afternoon was the part which he read from the RECORD, although all of it was good. I shall be glad, at any time when I have the floor, if he wants to interrupt me and inject another speech as good as that, because I have listened to many of his speeches, and I think it the best he has ever made. He says it is "without heat," and then makes so much noise and beats the desk so viciously that he illustrates what he says without saying it.

I have said that this bill, the so-called Dyer antilynching bill, is not intended to become operative in that section of the country which the proponents of the measure represent. In answer to that the distinguished Senator from Indiana [Mr. NEW] said, "Let us get it up and amend it," but they have had it for

months and months in their Senate committee, and the Senator who reported it said yesterday that his attention 10 months ago had been called to the fact that it would not punish people residing in other sections than the South. These Senators favoring the measure made no effort to amend it, and we have no assurance now that if we should consent to its consideration the majority would not make the bill conform to what the purpose of the bill was, merely to be a stab at the South and to excuse any offenses that may be committed in the North. There is no assurance that an amendment would be accepted, though the Senator from Indiana asks us to permit the bill to be considered and even said I might offer that amendment. Of course, it was generous in the Senator to offer me the privilege of offering it, provided I could get recognition from the Chair to do so, and I am duly grateful to him.

There is another thought to which I wish to call the attention of the Senator from Indiana which occurred to me when he was reading the fifth amendment to the Constitution, which reads as follows:

No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

That thought is that amendment never meant that a man might not lose his life without due process of law, because every murder that is committed involves some one losing his life without due process of law, and the Constitution never intended to say that it guaranteed that man would not be murdered. If the amendment gives any jurisdiction to invade the State and punish murder, it includes private murder as well as mob violence. If it is merely the saving of life that appeals to the Senator from Indiana, he ought to be broad enough that he should want to save the man from private murder as much as from mob violence. That section of the Constitution, of course everybody knows who takes the time to read it, means that no State, no official of a State, no tribunal created by the State should deprive a man of his life without due process of law. That is, if the State of Indiana should execute a man who had been accused of crime without giving him a trial, a hearing, the State would be denying him due process of the law. That is what the Constitution of the United States prevents. That is what the Supreme Court said in passing upon a measure somewhat like the proposed bill, that it referred to official acts of the State, not to private crimes.

It is the act of officials, people who pretend to act under some legislation or with some executive power, who pretend to act by some process that is given to them to execute a law, that is what is meant as denying to one the due process of law. That is what the Constitution meant, but the Senators who are so anxious to pass this particular bill, I presume, are not very much concerned about what the Constitution really meant. I understood the Senator from New Jersey [Mr. EDGE] yesterday to say that he was perfectly willing to encroach a little upon the Constitution in order to pass this particular legislation.

Again I am calling attention to what is apparent, and for this reason: Here is a bill which undertakes to punish mobs if they lynch a man guilty of an offense, however heinous it may be. If he is lynched because of his race, his occupation, his place of dwelling, or because he is unpopular, the framers of this measure are willing that the mob may kill for any of these causes; but if the one lynched be guilty of an offense, if he be guilty of outraging a woman and then meets summary justice by the hands of a mob, they, the proponents of this bill, say, "We will not stand for that. You may kill the innocent, but you must not kill the guilty without becoming amenable to the laws of these United States."

Here is the truth about the matter: I am sure, although I have no way to substantiate it, that a society known as the society for the protection of the rights of colored people wrote this bill and handed it to the proponents of it. These people had but one idea in view, and that was to make rape permissible, and to allow the guilty to go unpunished if that rape should be committed by a negro on a white woman in the South. That was the idea in the minds of the men who wrote the bill.

The society handed it to the committee and the committee, after months of hearings and consideration, reported it favorably with that idea written into it. That is what it was intended to do. It was intended to encourage crime; it was to encourage a negro to believe that the strong arm of the Federal Government was going to be thrust down into the Southern States in order to protect him and save him from punishment,

however infamous his crime might be. I say that no such blunder as that could have been written by anybody who wanted, as the Senator from Indiana says he does, the absolute enforcement of the law in all the States. No one could have made any such blunder as that; no lawyer could ever have written this bill as it is without that was his intention, and no latter-day amendment will take out the object and the purpose of the framers of the bill. I do not care what may happen to the bill in the future, that is the purpose of it, and that is the purpose which was in the mind of whoever wrote the bill and gave it to the committee.

Suppose we pass the bill. I have an idea that we would not thereby prevent a single act of mob violence. We might cause a great deal of annoyance and disturbance. We who believe in prohibition transferred to the Federal Government the joint power of enforcing the prohibition law, but I will venture the assertion that there is fifty times more whisky now sold in the State of Ohio than there was before that action was taken.

It is more difficult to enforce the law against the illicit sale of liquor in Indiana since the Federal Government assumed the enforcement of the law than it was before. Such legislation broke down the public morale of the States. They said, "Why, let Uncle Sam do it; he has undertaken to do it." The result is that the States do not enforce that law, and the Federal Government can not.

We say frankly that we do not want this bill to be passed, because it is a partisan bill, whatever Senators who favor it may say to the contrary. It is proposed to be passed for the purpose of paying a political debt. It was written in order that the peculiar kinds of violence which are committed in the States of Senators who are its proponents will not fall within its provisions. Where men are murdered because they want to work or do not want to work, or where, because of their color, they are not wanted in some particular locality of a city in which they might wish to live, as they were in Chicago and in East St. Louis, this bill does not give any protection. It is therefore only where the man has committed a public offense or is believed to have committed a public offense, or where it is believed he intends to commit a public offense, that the provisions of the bill will apply. If a man is killed for any act not a crime, his murderers go unwhipped of justice; if he is killed for the most fiendish crime, then it is desired that the Federal Government shall punish his punishers.

Whether it is true or not I do not know, but it was published in the Baltimore Evening Sun and the St. Louis Post Dispatch that the bill was reported not with the expectation of its passage; that all the lawyers on the Committee on the Judiciary—and they are all lawyers—except two agreed that the bill was not constitutional.

I was not present, of course; I am not a member of the Committee on the Judiciary, but it was published in the Baltimore Evening Sun and the St. Louis Post-Dispatch some time ago that when the bill was reported out most of the lawyers on the committee reserved the right to vote against it. I do not know what the motive might have been which prompted Senators to report a bill under such circumstances.

Mr. CUMMINS. Mr. President, may I interrupt the Senator from Arkansas?

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Iowa?

Mr. CARAWAY. Yes, I yield.

Mr. CUMMINS. I am a member of the Judiciary Committee.

Mr. CARAWAY. I knew that, sir.

Mr. CUMMINS. And I think the last statement made by the Senator from Arkansas is not well founded. It is not true that all but two members of the Judiciary Committee were of the opinion that the proposed law was unconstitutional. This is the fact: There were various phases of the question presented by the bill as it passed the House of Representatives which met with very great opposition of some members of the Judiciary Committee. A good many members of that committee were of the opinion that section 4 of the bill was of very doubtful constitutionality as it passed the other House; and that was true also as to the section of the bill relating to the liability of municipalities for crimes of this sort. I am sure that a majority of the Senators who are members of the Judiciary Committee, however, are of the opinion that the bill as it has been reported to the Senate is constitutional. I should be sorry to think that any member of that committee would vote to report a bill favorably unless he believed that the bill proposed constitutional action.

I am rather surprised at the statement of the Senator from Arkansas that the bill has a sectional operation. I wish to be entirely fair, of course.

Mr. CARAWAY. I am sure of that.

Mr. CUMMINS. The propaganda, if you please, or the motive which initiated this bill, came from those who had suffered or believed they had suffered from a failure to enforce the law in the South.

Mr. CARAWAY. Will the Senator from Iowa state just who did frame the bill?

Mr. CUMMINS. I do not know. I have never inquired as to who framed the bill.

Mr. CARAWAY. To whom does the Senator refer when he says that the bill was instigated by those who had suffered and had received no redress in the South?

Mr. CUMMINS. To be perfectly frank about the matter, I will say that the initiation of the bill came from the Negro race.

Mr. CARAWAY. Does the Senator know what particular class of negroes were responsible for it? I am sure the Senator knows, because he says it was initiated by people in the South who had suffered.

Mr. CUMMINS. I do not know; I have never talked with anyone who was connected with the origin of the bill; but, as a matter of common observation, it is easy for me to believe that the origin of the bill came from the persons who are interested in protecting the negroes.

Mr. CARAWAY. In the South?

Mr. CUMMINS. Yes; I think I may say in the South, because—

Mr. CARAWAY. They do not object to shooting negroes down by the dozens in East St. Louis and Chicago, I reckon?

Mr. CUMMINS. What I say is that when the bill was drawn and when it was reported by the Judiciary Committee it was made applicable to every section of the country, and the offense is just the same in Illinois as in Alabama or Arkansas.

Mr. CARAWAY. Let me ask the Senator a question then. Why was there written into the bill in section 1 the following language:

That the phrase "mob or riotous assemblage" when used in this act shall mean an assemblage composed of three or more persons acting in concert for the purpose of depriving any person of his life without authority of law as a punishment for or to prevent the commission of some actual or supposed public offense?

Why is the measure limited to punishing those mobs which put somebody to death who has committed a crime instead of saying that if a mob shall deprive a man of his life its members shall be guilty?

Mr. CUMMINS. So far as I am concerned, if I had been writing the bill I would have used more general terms, but the terms at present in the bill mean precisely that; they are not confined to lynchings that come about on account of an assault by either a white man or a black man upon a negro.

Mr. CARAWAY. Let me ask a question of the Senator as a lawyer. Under this bill if a mob were to assemble and were to hang negroes because they insisted on living in a particular section of a city, as was the case in Chicago, we will say, does the Senator say that under this bill, if it were a law, that mob could be punished?

Mr. CUMMINS. Certainly.

Mr. CARAWAY. What public offense would the negroes in that instance have committed?

Mr. CUMMINS. The bill is designed to reach the situation where a mob or riotous assemblage has committed the act of murder and there has been a failure on the part of the public authorities of the community in which the act was committed to enforce the law.

Mr. CARAWAY. Oh, no. If the Senator will permit me, here is the way the bill reads; it says:

That the phrase "mob or riotous assemblage," when used in this act, shall mean an assemblage composed of three or more persons acting in concert for the purpose of—

Doing what?—

of depriving any person of his life without authority of law—

As what?—

as a punishment—

For what purpose?—

for or to prevent the commission of some actual or supposed public offense.

If a mob puts a man to death for any other purpose, except to punish him for a supposed public offense, or to prevent him from committing such an offense, then it is not covered by the provisions of this bill.

Mr. CUMMINS. The bill covers the case of a mob that proceeds against the person of some one—

Mr. CARAWAY. For what purpose?

Mr. CUMMINS. To punish him.

Mr. CARAWAY. To punish him for what?

Mr. CUMMINS. For some offense which it is alleged or believed he has committed.

Mr. CARAWAY. Yes; some public offense; not a private, but a public offense, which is a violation of the law. Therefore, if a negro moved into a white neighborhood, as he has a perfect legal right to do, where the white people objected to his coming and they mobbed him for that, then this bill would not give any jurisdiction, would it?

Mr. CUMMINS. I am not so sure about that; but sections 3 and 4 of the bill are the effective sections.

Mr. CARAWAY. No; I have cited the section under which the jurisdiction is given.

Mr. CUMMINS. Section 3, if I may point it out to the Senator from Arkansas, provides:

That any State or municipal officer charged with a duty or who possesses the power or authority as such officer to protect the life of any person that may be put to death by any mob or riotous assemblage, or who has any such person in his charge as a prisoner, who fails, neglects, or refuses to make all reasonable efforts to prevent such person from being put to death—

And so forth.

That and the following provisions are the effective provisions of the proposed statute.

Mr. CARAWAY. They are effective, but they are only effective when the crime was committed for this one particular purpose set forth.

Mr. CUMMINS. Oh, no; I think the Senator from Arkansas will change his mind about that.

Mr. CARAWAY. If the Senator will read section 1, which provides the definition and which sets out the only people who can be reached, it merely says:

That the phrase "mob or riotous assemblage," when used in this act, shall mean an assemblage composed of three or more persons acting in concert for the purpose of depriving any person of his life without authority of law as a punishment for or to prevent the commission of some actual or supposed public offense.

If a mob put a man to death for any other reason except that stated it does not come under the provisions of the bill.

Mr. CUMMINS. But if a man in the North were accused by the public generally, or by any part of the public, of the commission of a crime, it would not make any difference what that crime might be.

Mr. CARAWAY. Oh, but what I tried to say, and the Senator did not follow me, was this: The sectional part of it is this: In the South we never do put a negro to death simply because he is a negro. We put him to death, if at all, for some crime. In the North they sometimes shoot him, as they did in East St. Louis, simply because he is black; and you wrote your proposed law so that you could not reach the mob who mobbed the negro for being black, but you could reach the mob who mobbed the negro for outraging a white woman; and therefore I said that you wrote your law so as to make it effective in one section and to excuse the same acts of violence in another section.

Mr. CUMMINS. The only logical conclusion from that reasoning would be that we ought to extend the operation of the act so that any person put to death by a mob or riotous assembly should fall within the operation of this act.

Mr. CARAWAY. Let me ask the Senator a question. Why not, then, make all murder a Federal offense?

Mr. CUMMINS. There is this difference, and when we come to discuss it I shall be very glad to give my reasons for the belief that I hold: It is not true that this bill is founded upon the fifth amendment to the Constitution.

Mr. CARAWAY. Then the Senator from Indiana is wrong.

Mr. CUMMINS. I mean, entirely. That, of course, was taken into consideration; but the real foundation, in my judgment—lawyers do not agree about that; I confess that some of my associates on the committee do not agree with me about it—the real foundation for this statute is the fourteenth amendment to the Constitution, and the occasion upon which the procedure here provided for is to be followed is when citizens of the United States—or of a State, as they are all citizens of the United States—are denied the equal protection of the laws. In my judgment, therein lies the foundation for legislation of this character. I do not contend that every time a man is murdered the United States ought to assume jurisdiction.

Mr. CARAWAY. That man lost his life without due process of law, did he not?

Mr. CUMMINS. He may have done so, and he may not have been denied the equal protection of the laws.

Mr. CARAWAY. Let me ask the Senator a question. If two men kill a man, he has had his due process of law; but if there are three of them, then he has been denied the equal protection of the laws. If that the Senator's reasoning?

Mr. CUMMINS. This legislation assumes that there is greater enormity when a mob or a riotous assembly puts a man to death than when he suffers death by reason of the acts of a single person.

Mr. CARAWAY. In other words, it is a graver crime for three men to kill than for two to kill?

Mr. CUMMINS. I think so.

Mr. CARAWAY. Although he may have been tied and handcuffed when the two killed him, that is not so great an offense as if there was somebody else standing by? I just wanted to know the Senator's reasoning.

Mr. CUMMINS. I think there is a peculiar offense in the mob or riotous assembly. I do not say that we could not extend the jurisdiction of the United States to the point suggested, but I say that this bill does not do it.

Mr. CARAWAY. May I ask the Senator, then, from that last remark, does he believe that under the fourteenth amendment we could make all crimes punishable by Federal law?

Mr. CUMMINS. I do not.

Mr. CARAWAY. What crime would not be punishable? This amendment includes both life and property.

Mr. CUMMINS. An amendment that was added to the bill on my motion in the Committee on the Judiciary illustrates my belief in that respect. The Senator will observe that a part of the section was stricken out, and there was inserted:

Provided, That it shall be charged in the indictment—

This is the instance in which individuals may be punished through Federal intervention:

Provided, That it shall be charged in the indictment that by reason of the failure, neglect, or refusal of the officers of the State charged with the duty of prosecuting such offense under the laws of the State to proceed with due diligence to apprehend and prosecute such participants the State has denied to its citizens the equal protection of the laws.

And it is further provided that this fact shall be alleged in the indictment and shall be tried by a jury; and the Federal power acquires no jurisdiction unless a jury of the community finds that by reason of the failure on the part of the State officers to prosecute, apprehend, and punish those who are guilty of a murder through mob or riotous assemblage, the State has failed to extend to its citizens the equal protection of the laws.

Mr. CARAWAY. Let me ask the Senator a question. It is not the Senator's belief, is it, that it adds anything to the constitutional power to write into the bill that certain things must be complied with in the way of allegations in the indictment? In other words, if Congress has the power to legislate, it may do it without the verbiage saying that you must charge in the indictment certain things?

Mr. CUMMINS. I do not think so. It is possible that Congress could ascertain and declare that in a certain community or in a certain State the State has failed to extend or has denied to a citizen or to a certain class of citizens the equal protection of the laws. I express no opinion upon that point.

Mr. CARAWAY. It is not the Senator's argument that providing that certain allegations shall be charged in the indictment extends the power of Congress to legislate over crimes, is it?

Mr. CUMMINS. I do not assert that it does.

Mr. CARAWAY. I thought the Senator said that was the amendment that made this act constitutional.

Mr. CUMMINS. But I used this to illustrate the temperateness or the reasonableness of the proposal in the bill—that these people shall not be brought within the jurisdiction of the Federal authority until a jury of the community finds that the State has denied to its citizens or to some citizen the equal protection of the laws.

Mr. CARAWAY. Here is the reason why I asked the question: I thought the Senator said that his amendment was the provision which made the proposed measure constitutional—

Mr. CUMMINS. No.

Mr. CARAWAY. And I was curious to know if he thought that merely requiring that certain acts should be alleged in the indictment made it constitutional.

Mr. CUMMINS. No.

Mr. CARAWAY. I misunderstood the Senator. Therefore the amendment offered by the Senator did not add anything to the constitutionality of the bill?

Mr. CUMMINS. My doubt about the constitutionality of that section as it passed the House was that the fact must be ascertained by some one before Congress can act or before the law can become operative. The provision in the bill as it passed the House was that it should be ascertained *ex parte* and in a summary way by the judge.

Mr. CARAWAY. Does the Senator think that, making the jury find it adds anything to its constitutionality?

Mr. CUMMINS. I think there must be a hearing provided for upon that subject, and in my opinion a hearing by a jury and a determination by a jury was the most available and just method of ascertaining.

Mr. CARAWAY. But that did not add anything to its constitutionality, did it?

Mr. CUMMINS. In my judgment, there must be some ascertainment of it in order to make it constitutional.

Mr. CARAWAY. The court could have ascertained it, could it not?

Mr. CUMMINS. I have some doubt whether even Congress could give a court the power to ascertain the fact.

Mr. CARAWAY. The Senator thinks, then, that the Congress could give to a jury power to ascertain a fact that it could not confer upon a court?

Mr. CUMMINS. I have grave doubt about that.

Mr. CARAWAY. Let me ask the Senator a question. The Senator voted for the eighteenth amendment, did he not?

Mr. CUMMINS. I did.

Mr. CARAWAY. What was the necessity of the eighteenth amendment if we could have written a law saying that if a jury finds that a State is not enforcing the law against the sale of liquor the Federal Government may enforce the State law?

Mr. CUMMINS. There is this objection—

Mr. CARAWAY. There are many objections; but why was not the power there?

Mr. CUMMINS. There are a great many people who believe that we can not constitutionally select certain State laws and enforce them through Federal procedure. I do not care to express an opinion upon that point. I do not see any parallel between the eighteenth amendment and the present case.

Mr. CARAWAY. No; I do not, either, I am frank to say; but I was trying to follow the Senator's reasoning, and I may not have followed him clearly.

Mr. CUMMINS. But all that I rose to say was that this law, so far as the crimes affected by it are concerned, applies with equal force to every part of the United States.

Mr. CARAWAY. Then, again, let me ask the Senator why did he write section 1 in the language that he did?

Mr. CUMMINS. I did not write section 1.

Mr. CARAWAY. Why did the Senator approve it in the language in which it appears?

Mr. CUMMINS. Because I think it does not change the principle that I have just announced.

Mr. CARAWAY. It makes it impossible to punish a riot if the victim happens to be innocent and never has been suspected of being guilty of a crime, but gives jurisdiction only where the man has been put to death either because he committed an offense or because he was thought to have committed one or where he was suspected of having intended to commit a public offense.

Mr. CUMMINS. The only conclusion that the Senator from Arkansas can justly draw from that, as it seems to me, is that the crime is committed oftener in the South than it is in the North; that is, that men are mobbed and lynched oftener on account of the alleged commission of a crime in the South than in the North.

Mr. CARAWAY. Of course. That is the only thing we ever do mob them for in the South.

Mr. CUMMINS. But the law is absolutely uniform in its application.

Mr. CARAWAY. No; with all due deference to the Senator from Iowa, it would be impossible to punish a mob under the provisions of this bill, if it should be enacted into law and be declared constitutional, unless you could show that they put the man to death for the commission of a public offense, or that the mob thought he had committed a public offense, or believed he was going to commit a public offense. If it could be shown that they put him to death because they did not want him to reside in the neighborhood, did not like the church with which he was affiliated, did not like his social pretensions, or whatever it might be, so long as it was not a public offense, then there would be no jurisdiction under this bill.

Mr. CUMMINS. That may be true.

Mr. CARAWAY. Why, of course. That is written in the bill.

Mr. CUMMINS. Nevertheless, the law is of general, equal application.

Mr. CARAWAY. Oh, that is true; but, then, you might write a law providing that all cross-eyed men should be hanged. If you were not cross-eyed you would not be within the scope of the law, although the law was general; and, therefore, to say that the fact that certain people are within the provisions of

the law when the law is general gives those people no right to complain of course is begging the question.

Mr. CUMMINS. That is the reason why I say that the Senator's real objection is that the law will find a more frequent application in the South than in the North.

Mr. CARAWAY. Absolutely.

Mr. CUMMINS. But it will find its application in the North just as well as in the South.

Mr. CARAWAY. No. The bill was so written that the peculiar reasons for putting people to death by mobs in the North should not be within the provisions of the law. They shot negroes in East St. Louis because they did not like their color and their smell.

Mr. CUMMINS. That may be so.

Mr. CARAWAY. And the proponents of this measure did not want to punish them for doing that; but if a negro in South Carolina should outrage a white woman and be put to death by her neighbors and friends, you say, "Let us haul up that community and punish them. They punished a negro for an infamous crime. They are bad citizens and ought to be punished," but if you shot a negro simply because you did not like him, as they did in East St. Louis, of course, that is all right. You have a right to do that.

Mr. CUMMINS. The Senator does not get away from my real conclusion. We have had in the North, lamentably, a great many instances in which men have been lynched or mobbed and killed for the alleged or the believed commission of a crime, have we not?

Mr. CARAWAY. I thought in the North they were particularly desirous to put negroes to death because they did not like their color or their religious beliefs.

Mr. CUMMINS. No; the Senator is thinking of one instance.

Mr. CARAWAY. I will say frankly that I do not know what the peculiar views in Iowa are as to putting people to death by mob violence.

Mr. CUMMINS. Unfortunately, since I have lived in Iowa there have been possibly half a dozen instances of men being lynched simply because they were believed to have committed some crime of great enormity, sometimes murder, sometimes other offenses that are regarded as particularly heinous, and this proposed law would apply to them.

Mr. CARAWAY. But let me ask the Senator a question. Is not the Senator conscious that the proposed law is so drawn that in its operation it would fall upon the South and not upon the North? I am not accusing the Senator of having written it, because he disclaims that. I doubt if he had ever read section 1 with that idea in view.

Mr. CUMMINS. Oh, yes; I have read it.

Mr. CARAWAY. I say with that idea in view, because I do not think the Senator would entertain an idea of that kind. That is what I am trying to say. But the bill is so drawn, as the Senator will admit when he reads it, as to make it applicable to lynchings in the South, but excuses the prevailing methods and means of putting people to death by mobs in the Northern States.

Mr. CUMMINS. Without any definite knowledge on the subject, because I have not collected the information, I venture to say that nine-tenths of the lynchings in the North have been on account of the commission of a crime on the part of the person lynched, or the belief on the part of the lynchers that the person assailed was guilty of crime.

Mr. CARAWAY. What offense does the Senator think the people thought the miners at Marion, Ill., had committed?

Mr. CUMMINS. I do not think that would come within this law.

Mr. CARAWAY. It does not come within this law; of course it does not. What does the Senator think the people in Chicago thought as to the offense the negroes had committed there when the riots broke out?

Mr. CUMMINS. That crime in the South would no more come within the law than in the North.

Mr. CARAWAY. They do not commit that crime in the South. They do not shoot men in the South because of their race.

Mr. CUMMINS. I think they do as much as they do in the North.

Mr. CARAWAY. Will the Senator name an instance?

Mr. CUMMINS. I do not recall an instance, but I do not think there is any difference between the North and the South so far as crimes of that kind are concerned.

Mr. CARAWAY. I never knew a mob to put a negro to death in the South simply because they did not like his race or occupation. It was always for some offense. In East St. Louis and in Chicago, and here in the good city of Washington, I do not think that was the moving spirit at all.

Mr. CUMMINS. You can not judge a law by peculiar and isolated instances. All I say is that the law is general and uniform.

Mr. CARAWAY. The Senator knows that is begging the question. To repeat my statement, let me write a law that only cross-eyed men should be guilty. You could say that law was uniform and equal because it applied to all cross-eyed men, but all other men who are not cross-eyed would be exempt from its provisions.

This bill has been so written that if the mob is actuated by any motive except to punish a man for a public offense or to prevent his committing a public offense it is not possible for the Federal Government to intervene. Why restrict it? That is what I am trying to find out. What was the motive that made the proponents of the measure restrict its application?

Mr. CUMMINS. The violations of the law would perhaps be found more in the South than in the North.

Mr. CARAWAY. Yes; I am certain whoever wrote the bill was sure of that.

Mr. CUMMINS. But if the Senator desires to bring every lynching under the jurisdiction of the Federal authority I have no objection.

Mr. CARAWAY. I have; I do not want any of it. But may I ask the Senator one more question? The Senator said it was not true that all the lawyers on the committee doubted the constitutionality of the bill. How many did, if I may ask about that?

Mr. OVERMAN. Right here, let me say, I doubt whether it is exactly proper—

Mr. CARAWAY. I doubt it, too.

Mr. OVERMAN. To tell what occurred in the committee.

Mr. CUMMINS. I do not intend to tell what occurred.

Mr. OVERMAN. It has been told.

Mr. CUMMINS. No; it has not.

Mr. OVERMAN. Part has been told.

Mr. CUMMINS. I do not think the Senator told anything that occurred.

Mr. OVERMAN. He read the newspaper account, which, I think, was substantially true. When this bill went before the committee I have no doubt that every lawyer on the committee thought it was unconstitutional, with two exceptions. They so expressed themselves.

Mr. CUMMINS. The Senator from North Carolina is violating his own precept.

Mr. OVERMAN. I am doing it because the Senator denies that statement. Every man on the committee expressed himself, and among them the Senator from Iowa was the most pronounced in declaring this bill unconstitutional.

Mr. CUMMINS. Certain sections of the bill.

Mr. OVERMAN. Of course. It stayed in the committee some time, and was referred to a subcommittee, of which the Senator was a member. The Senator wrote an amendment, which was the amendment he read, and, if I recollect rightly, he said he had grave doubts about it, but that his amendment would come nearer making it constitutional.

Mr. CUMMINS. The Senator does not report me with absolute accuracy.

Mr. OVERMAN. Another thing, when the vote was taken, it was very close, the Senator will remember, and the Senator remembers that some four of the Senators reserved the right to vote against the bill on the floor of the Senate because it was unconstitutional.

Mr. CUMMINS. I take it for granted that every member of every committee reserves the right to vote as he pleases when the final vote is taken.

Mr. OVERMAN. That is not my point. That is true; but when a Senator comes out of the committee, when the vote is taken, and says, "I reserve my right to vote against this bill, although I am going to vote to report it to the Senate"—

Mr. CUMMINS. I do not remember how many Senators on the Judiciary Committee made that statement.

Mr. OVERMAN. There were some.

Mr. CUMMINS. The Senator from North Carolina undoubtedly remembers, and I do not question his statement. But I know the position I myself took, which was that there was no doubt about the constitutionality of section 3 of this bill; that with regard to section 4, I did not believe we could constitutionally decide the question of whether a State had denied to its citizens the equal protection of the laws without a plenary procedure to determine that fact. That was the reason I offered my amendment, and when that amendment was adopted I was entirely content with the constitutionality of the section.

Mr. OVERMAN. My recollection is that the Senator said about his amendment, "If anything will make it constitutional this will do it; but I will always have a doubt about it."

Mr. CUMMINS. No; I do not think I said that. I recognize that there are some questions that lie near the border line, and it is quite impossible to bring lawyers' minds as a whole into uniform judgment with regard to that matter; but I never expressed any doubt about the constitutionality of section 4 as it was amended. With regard to the section imposing a liability upon municipalities which fail to enforce the law, or on officers who fail to enforce the law, I still have some doubt with regard to the constitutionality.

Mr. OVERMAN. I think that is the position the Senator took in the committee.

Mr. CUMMINS. I do not surrender my right to my own judgment, and when I believe that a law is doubtful I have no hesitation in expressing my opinion. I think there is a great deal of doubt about the imposition of a penalty upon a municipality under the circumstances set forth in that section of this bill.

Mr. CARAWAY. Let me ask the Senator about section 6, which reads:

That in the event that any person so put to death shall have been transported by such mob or riotous assemblage from one county to another county during the time intervening between his capture and putting to death, the county in which he is seized and the county in which he is put to death shall be jointly and severally liable to pay the forfeiture herein provided.

Mr. CUMMINS. The answer I have already given to the Senator from North Carolina covers that.

Mr. CARAWAY. Let me go just a step further. I want to tell the Senator what the fact is, and then ask him whether the law would apply. I do not know whether other States have similar constitutions, but in my State a county is merely a subdivision of the State for administrative purposes, and can not be sued, nor can its officers be sued for its torts. The courts have said that a county is a part of the State. It is a quasi corporation merely for administrative purposes, and therefore it can not be sued any more than you can sue the State without its consent. Under that state of facts, does the Senator think you could hold a county in my State under this bill?

Mr. CUMMINS. The law to which the Senator refers is an exception, I assume, because most of the counties of the United States are subject to suits.

Mr. CARAWAY. In our States they are not subject to suits.

Mr. CUMMINS. My other answer is my answer to the question proposed by the Senator from Arkansas. I have a great deal of doubt about the authority of Congress to impose a penalty upon municipalities.

Mr. CARAWAY. Let me ask one other question. As a lawyer, then, does not the Senator hesitate to try to write into law a bill about the constitutionality of which he has a grave doubt, in view of the fact that we swore we would uphold the Constitution?

Mr. CUMMINS. I have no doubt.

Mr. CARAWAY. The Senator has no hesitancy in voting for a bill the constitutionality of which he gravely doubts?

Mr. CUMMINS. I believe this bill as a whole is constitutional. There are two or three provisions in it of which I have grave doubts.

Mr. CARAWAY. Is the Senator willing to vote for a bill as to provisions of which he has grave doubts, and entertains almost a conviction that they are unconstitutional?

Mr. CUMMINS. The answer to that is this, that if I favor a bill as a whole—and I have no doubt about the provisions of the greater part of this bill at all—if I have a doubt I have to resolve it in some way or other, and I resolve that doubt in favor of the provisions of the bill generally. What I might do if that particular question were presented to the Senate I do not say, but I believe that when a State fails to give to all its citizens the equal protection of the law, and that fact is ascertained in a lawful way, then the Federal authority can be given the jurisdiction to punish a crime, whatever it may be.

Mr. CARAWAY. Let me ask the Senator another question. The Senator said that under the fourteenth amendment it is not within the power of Congress to prohibit certain crimes. Will the Senator point out the class of crimes to which he refers?

Mr. CUMMINS. Any case where the evidence was sufficient to prove to a reasonable man that the person accused had been denied the equal protection of the law by the State or through some instrumentality of the State.

Mr. CARAWAY. The fourteenth amendment undertakes to protect property, just as it does persons, and all crimes must be either against the person or the property except those against government. What class of crimes would the Senator say that Congress, if it has the power to prohibit mob violence—

Mr. CUMMINS. Is the Senator now speaking of laws that have been passed by a State affecting property?

Mr. CARAWAY. Oh, no. I understood the Senator to say a while ago that he was not certain that we could not punish individual crime, murder, under the fourteenth amendment.

Mr. CUMMINS. No; I said I would not be willing to extend it to murder.

Mr. CARAWAY. But, as I understand him, the Senator said he thought the Congress had the power to enact laws to punish murder.

Mr. CUMMINS. It has the power to punish murder whenever that murder is committed under such circumstances as to establish before a tribunal authorized to hear the matter that it is a result of the denial of the equal protection of the law.

Mr. CARAWAY. Under similar circumstances, then, the Senator believes Congress could provide punishment for every crime if it could be shown that the person suffering from this crime had been denied the equal protection of the law. Therefore larceny would fall within that.

Mr. CUMMINS. Take my own State as an illustration; and I will take it rather than the State of Arkansas because it would be less invidious. If under the practice in our State a crime committed against a negro would not and could not be punished, and our State authorities deliberately and constantly failed to punish crimes against either the property or the person of a negro citizen, then I believe that the United States would have the right to punish the person committing such crime.

Mr. CARAWAY. Then it has a right to punish any person who commits a crime in Iowa, whether it be against the personal property of a negro or against the personal property of a white man, if the State does not punish him.

Mr. CUMMINS. No; I did not say that, because there are many crimes that go unpunished that can not be punished where the perpetrator can not be ascertained.

Mr. CARAWAY. Of course. I mean where the State makes no serious effort to punish.

Mr. CUMMINS. I think if my State through a long series of years should withhold any attempt to punish crimes committed against negroes, whereas it made all the effort it could make to punish crimes committed against white men, then the United States would have the right to enter that field and punish the perpetrators of those wrongs.

Mr. CARAWAY. May I ask the Senator another question? Suppose the State of Iowa made it its particular duty to punish the stealing of cattle and was rather lax in punishing people who stole hogs. Does the Senator think the Federal Government then could punish the hog thieves in Iowa?

Mr. CUMMINS. My answer is that all the people of Iowa are entitled to the equal protection of the law.

Mr. CARAWAY. Of course, the Senator is going around the question.

Mr. CUMMINS. And that if the State authorities did not punish a certain class of people or a certain class of crimes, the citizen of Iowa, being a citizen of the United States, has a right to ask Congress to clothe its judicial tribunals with the authority to enforce the law.

Mr. CARAWAY. Then, the Senator will qualify the statement he made a while ago that there are certain crimes which the Congress could not include within Federal jurisdiction. He will say now the Federal Government can step into the States and punish all crimes?

Mr. CUMMINS. No; the Senator does not correctly repeat what I stated, but he does so unintentionally, of course.

Mr. CARAWAY. I was doing the best I could to get the Senator's position.

Mr. CUMMINS. What I said was that it would be very unwise and even impossible for the Federal Government to enter the State of Iowa and punish crimes committed there unless it was shown that the State of Iowa had abandoned or abdicated its duty with respect to certain persons or a certain class of people and crimes.

Mr. CARAWAY. I beg the Senator's pardon, but he has forgotten the original proposition, which was that the Senator said he thought there were some crimes the Congress had the power to extend the jurisdiction of Federal Government to embrace and others that it could not include. That was the Senator's statement.

Mr. CUMMINS. I did not state it in just that way. I stated it with the qualification just mentioned.

Mr. CARAWAY. I beg the Senator's pardon. I believe when he reads the reporter's notes he will discover it just as I have stated it.

Mr. CUMMINS. That may be so.

Mr. CARAWAY. I am not trying to be captious with the Senator. That was my understanding of what he said.

Since the Senator from North Carolina [Mr. OVERMAN] and the Senator from Iowa have gone into the proceedings of the committee, may I ask how many Senators expressed their belief that the measure was unconstitutional, and at the same time voted to report it?

Mr. CUMMINS. I do not know.

Mr. CARAWAY. Were there, enough, if they voted according to their belief as to its unconstitutionality, that it would have failed to be reported out?

Mr. CUMMINS. I do not believe so. I would not question the word of the Senator from North Carolina on any account, but I do not even recall that more than one Senator, at most, suggested that he reserved the right to vote differently, or change his vote, when the matter was under consideration in the Senate. I do not recall more than one; but my understanding is that the vote by which the bill as amended was reported was the deliberate expression of a majority of the committee. We had the matter under consideration many times before we came to a final vote.

Mr. CARAWAY. The Senator raised one other interesting question—

Mr. OVERMAN. Mr. President, will the Senator from Arkansas allow me to ask the Senator from Iowa a question?

Mr. CARAWAY. Certainly.

Mr. OVERMAN. I was very much surprised at the Senator from Iowa, if I understood him correctly. I understood him to say that if he had a doubt about the constitutionality of a question in favor of law, he would resolve the doubt in favor of law and against the Constitution.

Mr. CUMMINS. It depends upon the degree of doubt. There are a great many questions upon which lawyers differ with regard to their constitutionality. Some hold very decided convictions. Some are unable to reach any positive conviction. When we are determining whether a law is constitutional or unconstitutional we are attempting to project ourselves into the future and guess what the Supreme Court of the United States will do in the instant case. I do not know whether the Senator from North Carolina has that kind of doubt in mind or whether he has some other doubt in mind.

Mr. OVERMAN. I have great respect for the Senator and regard him as one of the best lawyers I have ever known and one of the best men, but I ask him if, without exception, the great law writers of the country for 100 years have not said that it is the duty of the legislator to resolve the doubt in favor of the Constitution, and if he does not do so he is as much a criminal as the man who deliberately violates the provisions of the Constitution.

Mr. CUMMINS. I have heard that expression. I do not accept it and do not adopt it.

Mr. OVERMAN. The Senator disagrees with those law writers?

Mr. CUMMINS. I make up my own mind with regard to the Constitution and I endeavor to follow, but when I make up my own mind there may be in my mind and often is in my mind—because we are dealing with constitutional questions all the time—not only upon the inquiry how do I think this matter ought to be decided, but how do I think the Supreme Court of the United States will ultimately decide it when it comes into that tribunal for decision. There is a great difference between those two things. I oftentimes have much doubt with regard to the manner in which the Supreme Court, as determined by their former decisions, will ultimately decide the question in issue.

My own conviction as to whether the matter is constitutional or not, and that difference in what one means when he says "doubt," is confusing.

A man can not have any doubt with regard to his own convictions. To him it is either constitutional or unconstitutional. But he can have a grievous doubt with regard to the ruling which will finally be made by the Supreme Court upon the question. Nothing better illustrates that than the ruling of the Supreme Court in the child-labor case. I had no doubt with regard to the constitutionality of that act, and I have none yet, although the Supreme Court has definitely said it was unconstitutional.

When one reviews the decisions of the Supreme Court upon the question we are now discussing or questions which are analogous to it, it is very easy to reach the conclusion that the decision of the Supreme Court upon that question is very doubtful. I do not think that kind of doubt ought to prevent any Senator from voting for a law if he believes it constitutional.

Mr. OVERMAN. The Senator must admit that the decision of the Supreme Court of the United States is the law.

Mr. CUMMINS. It is the law until it is reversed.

Mr. OVERMAN. Then when we come to vote upon that question, if the Senator votes contrary to the decision of the Supreme Court he does not uphold the law, but demoralizes and throws down the law by his vote.

Mr. CUMMINS. That depends entirely upon the decisiveness of the decision of the Supreme Court. I voted for an income tax law, and so did the Senator from North Carolina. I believe; at least most of his Democratic associates voted for it—

Mr. OVERMAN. Yes; I voted for it.

Mr. CUMMINS. After the Supreme Court had held that it was unconstitutional.

Mr. OVERMAN. There were four dissenting opinions there, and we thought they were correct when so many had dissented.

Mr. CUMMINS. I will say the latest decision of the Supreme Court. It was a time when the former Senator from Texas, Mr. Bailey, offered an amendment to an income tax measure which I had introduced and which I frankly said at the time was doubtful, so far as the ruling of the Supreme Court upon it was concerned, but it was offered and I hoped it would pass—and that was long before the constitutional amendment providing for an income tax law was enacted—so that we might get a further and more definite expression of that tribunal upon the subject.

Mr. McKELLAR. Mr. President—

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Tennessee?

Mr. CARAWAY. I yield.

Mr. McKELLAR. I want to ask a question of the Senator from Iowa. In the deliberations before the committee was any authority of the Supreme Court of the United States cited at all in support of the constitutionality of this measure?

Mr. CUMMINS. We listened for hours to the reading of decisions of the Supreme Court, and I take it that every Senator who has any interest in the matter examined with exceeding care the decisions of the Supreme Court.

Mr. McKELLAR. The reason why I asked the question was because I have examined the cases which were cited by the Assistant Attorney General, and all of them were interstate commerce cases or cases hinging upon the interstate commerce clause of the Constitution. There was no case cited at all in point sustaining the bill as reported out by the committee.

Mr. CUMMINS. That simply shows the variety of the human mind. Those same decisions, as viewed by other minds and other lawyers, meant apparently a different thing. We had before us not only the decisions of the Supreme Court of the United States but half a dozen decisions of inferior tribunals—circuit courts of appeals, circuit court judges, and district judges—and we had before us four or five of the most learned briefs that could possibly be composed, some of them upon one side and some of them upon another.

Mr. McKELLAR. I was wondering if there was any particular decision upon which the bill was hinged, so to speak.

Mr. CUMMINS. Some of the most eminent lawyers in the United States have furnished briefs which proved to their satisfaction that there could be no question about the constitutionality of the bill; and it is clearly constitutional.

Mr. McKELLAR. Then, I shall change the form of my question.

Mr. CUMMINS. If Senators would let us get to the bill—

Mr. McKELLAR. We are right at it now.

Mr. CUMMINS. I know, but out of order.

Mr. McKELLAR. Yes; but we are talking about it just the same as if we were in order.

Mr. CUMMINS. I am not blaming the minority for the filibuster which is now being conducted.

Mr. McKELLAR. I am glad to hear the Senator say that.

Mr. CUMMINS. I do not think they ought to do it.

Mr. CARAWAY. I thought the Senator was joining with us.

Mr. CUMMINS. I think it is a proper rebuke to the majority. Here we have been for two years or more in complete power in the Senate, and we have refused or failed to modify the rules of the Senate so as to enable a majority of the Senators to bring the main question up to a vote. So long as we are willing to permit these antiquated, unjust rules to prevail, if I were opposed to a bill I would not consider that I was guilty of any moral crime if I employed all the rules of the Senate to prevent the bill coming to a vote.

Mr. McKELLAR. We are delighted to have the Senator's support. We thank him for it.

Mr. CUMMINS. I do not think Senators on the other side are right, for I say I think they ought to be in favor of the passage of this bill; therefore they ought not unduly to inter-

fere with its progress; but as to the reproach that I have heard cast upon my Democratic friends repeatedly for availing themselves of the present Senate rules, which are so ancient—I will not say honorable—that they belong to another civilization and another kind of government, I am not accusing those Senators of any wrongdoing in employing these artifices and these various devices in order to prevent a vote upon the bill.

Mr. McKELLAR. We are perfectly honest in our contention. The PRESIDING OFFICER (Mr. WILLIS in the chair). The Senator from Arkansas [Mr. CARAWAY] has the floor.

Mr. CARAWAY. I merely desire enough time to congratulate the Senator—

Mr. CUMMINS. I feel deeply grateful to the Senator from Arkansas for permitting me to interpose my views in the midst of his speech.

Mr. CARAWAY. I assure the Senator from Iowa that I am delighted to have him give expression to his views.

Mr. SHORTRIDGE. Will the Senator from Arkansas yield for a question?

Mr. CARAWAY. I yield to the Senator from California.

Mr. SHORTRIDGE. In regard to the members of the Committee on the Judiciary, I wish to advise the Senator from Arkansas and the Senate that there is one member of the committee who did not attend the meeting of the committee when the bill was reported out. That member is a very honorable and, I think, a very able Senator, and a member of the political party of the Senator from Arkansas.

Mr. CARAWAY. Perhaps the Senator to whom the Senator from California refers had no notice of the committee meeting.

Mr. SHORTRIDGE. No, that was not the cause of his absence. I could tell the Senator from Arkansas why the Senator to whom I refer did not attend the meeting of the committee, but, at any rate, the Senator from Arizona, to whom I refer, as I understand, is in favor of the bill, and if it ever comes to a vote will so vote. I must assume, therefore, in view of his character and learning, that he believes the bill to be wise and constitutional.

Mr. CARAWAY. He may.

Mr. OVERMAN. The Senator from Arizona [Mr. ASHURST] did not attend a single meeting of the committee and heard no discussion of the bill. He was not present in the committee at any time.

Mr. CARAWAY. Then, under those circumstances, I can see why he might think the bill constitutional.

Mr. SHORTRIDGE. I have reason to know why the Senator from Arizona was not present.

Mr. OVERMAN. The Senator from Arizona may have had good reasons for not being present; but I am referring to the fact that he was not in the committee at any time when the bill was under consideration.

Mr. SHORTRIDGE. It is not proper for me to state the reason for his absence. I know why he did not attend the meeting of the committee and vote on the bill.

Mr. CARAWAY. I should think it would be proper for one to say anything about the bill that he desired, but some things would have to be said in private, as it would violate the rules of the Senate to say them publicly.

What I wish to do, however, is to thank the Senator from Ohio [Mr. WILLIS], who so ably helped Senators who are opposed to the pending measure to carry on the filibuster this afternoon. If he will be here to-morrow—and I hope he will—and will then be as active as he has been this afternoon, I know the country will be grateful to him for his attitude. I also congratulate the country that the Senator from Iowa [Mr. CUMMINS] has also consumed an hour or two of time in order to prevent the consideration of the bill. The Senator from California [Mr. SHORTRIDGE] also has risen a half dozen times in order to get the floor and continue for the remainder of the afternoon. I am in favor of the Senator having the floor. I love to hear him speak. I think that he is possibly the most eloquent man who has sat in the Senate since I have been in public life. I listen with much pleasure when he addresses the Senate. His reasoning is always good, though sometimes his conclusions are not in line with his argument. However, he is always interesting.

Also, the closing remarks of the Senator from Iowa were likewise interesting. He said that he did not blame the minority for filibustering, nor did he fall out with the Senator from Ohio or the Senator from Indiana for joining with us in the filibuster, but that he blamed the ancient and honorable rules of the Senate. If I may say so without being offensive, it seems that the Senator from Iowa thinks that anything that is ancient and honorable is entirely unworthy of consideration; that the ancient and honorable Constitution ought not to bind a Senator;

that if he has a doubt he should resolve that doubt in favor of action against the Constitution instead of for it; and likewise, I should judge, he classes the Constitution and the rules of the Senate as outworn and unsuited to the modern generation; that they were suitable for the builders of this Republic, but not at all adequate to take care of the rights of the people of the present day. I may not be quite translating into the exact language what the Senator from Iowa intended to say, but what I stated is about the impression I gained from his arguments.

Mr. CUMMINS. May I interrupt the Senator from Arkansas?

Mr. CARAWAY. Yes, sir.

Mr. CUMMINS. The Senator from Arkansas did not correctly understand me to say that the Constitution of the United States should not be observed.

Mr. CARAWAY. I heard the Senator from Iowa say that he had grave doubts about the constitutionality of the pending bill, and then that he would resolve those doubts in favor of supporting it.

Mr. CUMMINS. No; the Senator from Arkansas understood me to say, as I afterwards explained, that I had grave doubt with regard to the outcome in the Supreme Court of the section of the bill to which reference has been made by the Senator from Arkansas; I think it is section 6; but, of course, I satisfied my own mind with regard to its constitutionality before I gave my support to it.

Mr. CARAWAY. May I ask the Senator a question?

Mr. CUMMINS. Certainly.

Mr. CARAWAY. The Senator knows that the Supreme Court under the Constitution is the tribunal set up to determine whether an act of Congress is within its power or without it?

Mr. CUMMINS. Certainly.

Mr. CARAWAY. And, therefore, if the Senator believes that the Supreme Court, the tribunal set up by the Constitution to determine such questions, would hold that the act is not within the constitutional power of Congress to pass, he still says that he can afford to resolve that doubt in favor of the proposed law and against the Constitution.

Mr. CUMMINS. There is a vast difference between the two things.

Mr. CARAWAY. I am curious to know where the difference lies.

Mr. CUMMINS. The Supreme Court has more than once been a little vague, to say the least, in its decisions upon great public questions, and I may have a very serious doubt in regard to the ultimate ruling of the Supreme Court upon a bill and yet be very well assured in my own mind that the bill is constitutional.

Mr. CARAWAY. I think I understand the Senator. Then he agrees with the Senator from California [Mr. SHORTRIDGE], if I do not misrepresent him, who said on yesterday that he thought the Supreme Court would refuse to follow itself and follow him in the view that the proposed act is constitutional.

Mr. SHORTRIDGE. No; I did not say that.

Mr. CARAWAY. Did not the Senator from California say that in substance?

Mr. SHORTRIDGE. No; not at all.

Mr. CARAWAY. I believe if the Senator will read what he said he will find that is in effect what he said.

Mr. SHORTRIDGE. What I said, if the Senator will permit me, is this: I think there are two or three decisions of the Supreme Court—

Mr. CARAWAY. That are wrong.

Mr. SHORTRIDGE. Yes; to use that term.

Mr. CARAWAY. That is what I understand the Senator to say.

Mr. SHORTRIDGE. In my judgment, they are wrong. But let me explain with respect to that tribunal that I think not enough attention has been paid to section 5 of the fourteenth amendment to the Constitution. I think that under that section it is perfectly competent for Congress to determine what is appropriate legislation to the end of vouchsafing to a citizen of the United States full protection under the law. In that connection I am very sure there are other decisions of the Supreme Court which hold that if Congress adopts a given plan, considering it "appropriate legislation," the courts will not interfere, it being held that that is a legislative function and not a judicial one. Therefore, I conclude, and have always contended, that if Congress hits upon a form of legislation which it deems appropriate to safeguard the rights of a citizen of the United States guaranteed by the Constitution the Supreme Court will never interfere to disturb it.

Mr. CARAWAY. Then, as I understand the Senator from California, he thinks that if the Congress should see fit to enact any law touching the punishment of offenses and say that it deems that law appropriate legislation to enforce the

constitutional guaranties of equal protection of the law to the citizen, it might punish any and all crimes.

Mr. SHORTRIDGE. To answer that would require many words, and we have had enough words for the day.

Mr. CARAWAY. Very well. I am going to yield to the Senator in a little while.

Mr. SHORTRIDGE. I did not intend to reflect upon the Senator's remarks—

Mr. CARAWAY. Yes; I understood the Senator was very much interested in what I was saying.

Mr. SHORTRIDGE. But my views can not be expressed in a few words.

Mr. CARAWAY. At any rate, finally the Senator will have to express his views if he means to say that Congress does have the power to enforce all the laws of the States and to punish all offenses if it shall see fit, and that it deems it necessary in order to carry out the provisions of the fourteenth amendment to the Constitution.

Mr. SHORTRIDGE. I will undertake in a sentence, not desiring to detain the Senate for but a moment, to state my opinion.

Mr. CARAWAY. Very well.

Mr. SHORTRIDGE. Here is my view expressed offhand—and we can not always speak with perfect accuracy in that manner—I have in mind the fifth amendment to the Constitution.

Mr. CARAWAY. The Senator from Iowa put that out of consideration a while ago.

Mr. SHORTRIDGE. No; the Senator from Iowa did not do that.

Mr. CARAWAY. He tried to do so.

Mr. SHORTRIDGE. No; the Senator from Iowa did not.

Mr. CUMMINS. There is another difference of opinion as to that.

Mr. CARAWAY. The Senator from Iowa said that that was not where the authority for this proposed legislation was found.

Mr. SHORTRIDGE. Will the Senator permit me a brief statement of my views?

Mr. CARAWAY. All I want to say is this: That I hope Senators on the other side will finally get together upon the provision of the Constitution that gives to Congress the right to enact this proposed legislation. Three authorities have spoken, and they have not agreed.

Mr. SHORTRIDGE. I have said, and I repeat, that if called upon to cite those sections of the Constitution which I think give full support to my ultimate conclusion, I would cite first, paragraph 18, Article I, section 5 of the Constitution. If the Senator has a copy of the Constitution before him I will be glad to have him read it.

Mr. CARAWAY. Does the Senator refer to Article I?

Mr. SHORTRIDGE. To Article I, section 5, paragraph 18. I think I recall the section and paragraph.

Mr. CARAWAY. The Senator is mistaken, for there does not happen to be a paragraph 18 in section 5 of Article I of the Constitution. Section 5, I will say to the Senator, is on page 373.

Mr. SHORTRIDGE. I refer to the section which enumerates the powers of Congress.

Mr. CARAWAY. That is section 8, and it will be found on pages 375, 376, 377, and 378 of the copy of the document which is before us.

Mr. SHORTRIDGE. It begins "That Congress shall have power," and the particular provision to which I refer is, I think, in paragraph 18.

Mr. CARAWAY. The Senator has in mind, I presume, the provision which reads:

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

That provision is found at the bottom of page 377.

Mr. SHORTRIDGE. Let me put in the record the provision I have in mind. I think I said Article I of the Constitution, section 5.

Mr. CARAWAY. Yes, sir; but that is under section 7.

Mr. SHORTRIDGE. The Senator is right. It is Article I, section 7, paragraph 18.

Mr. CARAWAY. Let us correct both of ourselves. It is section 8.

Mr. SHORTRIDGE. It is paragraph 18, at the bottom of page 377.

Mr. CARAWAY. Yes; but it is section 8.

Mr. SHORTRIDGE. That section reads:

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

I also rely upon amendment 5 of the Constitution, which, for the purpose of the record, I will have inserted.

Mr. CARAWAY. That is on page 390.

Mr. SHORTRIDGE. That is on page 390. And in order that anyone concerned with what is now going on may have it before his eyes, let us read it:

No person shall be held to answer for a capital or otherwise infamous crime except on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

I invite thoughtful minds to this language. This is not any inhibition against a State, observe. This is no inhibition against any department of our Government, State or Federal. It is in effect an affirmative declaration of certain rights and immunities of a citizen of the United States. Now, carry in mind the language first quoted, namely, that Congress has power to carry out the foregoing powers or any thereafter vested.

Mr. CARAWAY. Let me ask the Senator a question. Why did you add section 5 to amendment 14, then, if that was true?

Mr. SHORTRIDGE. I can explain that, and it has been explained by the law writers, as to why section 14 was adopted.

Mr. CARAWAY. No; I am talking about section 5 of amendment 14.

Mr. SHORTRIDGE. I did not catch the Senator's question.

Mr. CARAWAY. If you thought the powers just enumerated were so broad, why was section 5 added to amendment 14?

Mr. SHORTRIDGE. Oh, we did not add section 5 to amendment 14. Amendment 5 was one of the first amendments adopted.

Mr. CARAWAY. I did not say amendment 5; I said, "Why did you add section 5 to amendment 14?"

Mr. SHORTRIDGE. Oh! Similar language will be found in other amendments of the Constitution.

Mr. CARAWAY. I know; but why do it if the other authority was broad enough to cover it?

Mr. SHORTRIDGE. I claim that amendment 14 without section 5 would be broad enough to give power to enact this measure.

Mr. CARAWAY. Then why was section 5 added?

Mr. SHORTRIDGE. I think out of abundance of caution. I think those who framed those later amendments, out of abundance of caution, specifically used those words in order to confer upon Congress the power to do the things referred to.

Mr. CARAWAY. In other words, the Senator thinks it was not necessary, but the framers were just overcautious?

Mr. SHORTRIDGE. I believe the Senator may so state it.

Mr. CARAWAY. In other words, the men who wrote amendment 14 did not agree with the Senator's construction of paragraph 18 of section 8?

Mr. SHORTRIDGE. I can not tell what the great men of that period thought.

Mr. CARAWAY. At least, it seems that they did not.

Mr. SHORTRIDGE. I know that they used that language, and I think they used it knowingly, and I think it confers specific powers, very large and extensive powers, upon the Federal Government.

Mr. CARAWAY. It did not confer upon the Federal Government any authority broader than paragraph 18 of section 8, according to the Senator's contention.

Mr. SHORTRIDGE. I think not. I think the power of Congress was ample without that additional and specific delegation of power; but I rely, in response to the question, very largely upon amendment 14 to the Constitution of the United States. That amendment contains many things to which attention has not been called.

Mr. CARAWAY. I thought it had been pretty well fought over in the Supreme Court.

Mr. SHORTRIDGE. It has been pretty well emasculated and pretty well ignored, in my judgment.

Mr. CARAWAY. The Supreme Court went wrong on that section?

Mr. SHORTRIDGE. I think they did.

Mr. CARAWAY. And it is the belief now, if the Senator will pardon me, that the Senator can set the Supreme Court right by getting it to reconsider its decision?

Mr. SHORTRIDGE. Oh, as to this proposed legislation, I think the Supreme Court will hold it to be entirely constitutional.

Mr. CARAWAY. But it will have to reverse itself to do it?

Mr. SHORTRIDGE. No; not necessarily.

Mr. CARAWAY. I thought the Senator predicated his belief that this law was constitutional upon the statement that

the Supreme Court heretofore had erred in construing the Constitution.

Mr. SHORTRIDGE. But I added that I think it very easy to differentiate between the decisions that have been made and the one which will necessarily be rendered should this act come before the Supreme Court.

Mr. CARAWAY. Then that will not necessitate the Supreme Court being wrong, will it?

Mr. SHORTRIDGE. Not necessarily.

Mr. CARAWAY. But I think the Senator started out with the proposition that the Supreme Court was wrong, and it had not given due consideration to this amendment, and this new law was going to call to the attention of the Supreme Court wherein it had been wrong heretofore.

Mr. SHORTRIDGE. Oh, no; not put in that form. I answered the Senator from Arkansas in this way: I, with great respect, think that the decision of the Supreme Court on the civil rights bill was erroneous.

Mr. CARAWAY. That means "wrong."

Mr. SHORTRIDGE. I always have thought so, and I think so now; but I think this legislation is constitutional and will be so held, and that in order so to hold it will not be necessary for the Supreme Court to reverse decisions upon other phases of the Constitution.

Mr. CARAWAY. I beg the Senator's pardon. I thought yesterday he predicated his statement that he thought this act to be constitutional upon a statement that the former decisions of the Supreme Court were wrong.

Mr. SHORTRIDGE. The Senator will see that I hastened to add there that I did not think that those decisions would be out of harmony with the decision which would uphold this proposed legislation.

Mr. CARAWAY. I did not understand that part of the Senator's statement.

Mr. SHORTRIDGE. For the record, amendment 14 provides:

All persons born or naturalized in the United States and subject to the jurisdiction thereof are—

What? I pause—

Are citizens of the United States and of the State wherein they reside.

Not to prolong the matter, there is a very clear distinction between United States citizenship and State citizenship.

Mr. CARAWAY. Oh, let me ask the Senator—

Mr. SHORTRIDGE. I will show the Senator authorities for that proposition if he wishes them.

Mr. CARAWAY. There is a difference between residence and citizenship; but if a man is a citizen of my State he must be a citizen of the United States. He may be a resident of California and a citizen of Japan.

Mr. SHORTRIDGE. That is quite true.

Mr. CARAWAY. But I could not go with the Senator as far as he went.

Mr. SHORTRIDGE. I merely throw out the idea, which I thought was familiar and would be admitted, that there is a citizenship of the United States which is distinct in legal essence from State citizenship, and this provision here in the Constitution states who are citizens of the United States.

Then the section proceeds:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Answering the Senator's question, I think that if the constitutional amendment had stopped there this proposed legislation would be constitutional; but I attach great importance to section 5.

Mr. CARAWAY. I thought the Senator said a while ago that section 5 was absolutely without any force and effect.

Mr. SHORTRIDGE. The Senator from Arkansas ought not to—

Mr. CARAWAY. Just wait a minute. The Senator from California said that under paragraph 18 of section 7 of the Constitution all these rights and immunities were guaranteed.

Mr. SHORTRIDGE. Yes, sir.

Mr. CARAWAY. And that the writers of amendment 14 merely added section 5 out of abundance of caution.

Mr. SHORTRIDGE. I so say.

Mr. CARAWAY. Then it does not add anything to it.

Mr. SHORTRIDGE. Oh, on the contrary, I say I attach great importance to section 5 of this amendment. Why do I? I may be wrong as to the force or scope of paragraph 18, quoted. I may be in error as to the scope or power of Congress or the Federal Government under amendment 5. I may be in error in my view that amendment 14 would be ample if it stopped at the first section; but now I say I attach great importance to section 5, which reads:

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Mr. OVERMAN. Mr. President, will the Senator yield to me? Mr. CARAWAY. Certainly.

Mr. OVERMAN. All of this argument is based upon the assumption that there are some States of the United States that do deny their citizens the equal protection of the laws. Can the Senator sustain that assumption?

Mr. SHORTRIDGE. I hope to God it is not so; but if it is so, then this law covers such a case as that.

Mr. OVERMAN. Unless it is so, the Senator's argument falls to the ground.

Mr. SHORTRIDGE. Oh, of course, if no facts can ever be developed which make this law applicable, it is an idle thing for us to enact it. Of course, we must assume, however, that there are conditions, not limited to one section—and let no one think that I am speaking of sections—we must assume that there is a reason for the proposed legislation; but if the facts can never be developed, of course, our action is entirely nugatory.

There is another thing I should like to add, and if Senators care to pursue it they may. I respectfully call the attention of the Senate to the fact that there is such a thing as United States citizenship. If that be so, then my position is that that citizenship carries with it the right to life, to liberty, and to the possession of legally acquired property. If that be so, I further contend, I hold—and I would hold it if I had the honor to represent North Carolina here in the Senate—that this Government, this Nation, speaking through the Congress set up and established by the people through their Constitution, can pass such legislation as will protect the national citizenship in all these rights.

Ah, but you say that is invading the rights of the States. Oh, no; it is not. I submit that it is not. If the State affirmatively denies this protection, of course no one contends that the Federal Government could not step in; but if a State through nonaction denies the protection, or if the State—North Carolina, Alabama, Arkansas, California—shall be overrun, its machinery of government broken down, and its people deprived of life or liberty or property without due process of law, then my doctrine applies, that this Federal Government, your Government and mine, can protect the humble, the weak, the poor, the white, the black, whoever is within that territory denominated a State having American citizenship and claiming and entitled to the protection of the laws of the land. That is my view, that is my doctrine, and that is the view or doctrine of this proposed legislation.

Mr. CARAWAY. Mr. President, it is very enlightening to have the Senator's views upon the Constitution. It is to be regretted that such a great measure should be offered to the Senate and the country with those who favor it differing as to where the authority rests in the Constitution to grant to Congress the power to take away from the State its right to punish crime and transfer it to the Federal Government.

Mr. President, I admire the Senator from California. He is always interesting, but he was laboring under a very great deal of embarrassment in trying to differentiate between a citizen of the United States and a State citizen. Whenever he commences to talk about equal rights, the attitude of California toward the Japanese rises up to plague him, and it has to be explained, and the explanation is that the Japanese who is a citizen of California is not a citizen of the United States, and therefore the Constitution does not protect him. I can see the very great difficulty that confronts the Senator, and I admire his skill in getting ready to go around that question.

I shall add just this one word. I want to see the law enforced, and in my section of the country we do enforce it. I make the statement, based upon my own experience in the courts, that in the courts of my State a negro is protected in every right he has under the Constitution. In fact, if a white man shall descend to the level of the negro—and I use that language advisedly—and engage in litigation with him, he always loses his lawsuit, or nearly always. I do not recall a single incident in which a white man had a lawsuit with a negro and did not lose it. They hold that he ought not to dispute with him about his rights. They are careful of the negro's rights. This bill, as I said before, is merely an instrumentality of certain associations situated in New York, whose officers are white men who are working for a salary, to arouse the negroes and make it profitable to wage a contest in the Congress to have the Federal Government invade the sovereign States. I do not accuse the committee of having been a party to it, but it has been imposed upon. Those men so wrote the bill that it would not affect the peculiar manners of lynching people in California or Iowa but would reach those people in Arkansas and in Georgia. I absolve the committee from being

willingly the instrumentality of this organization, but that is the language of the bill, and if Senators favoring it had read it they must have known it.

Mr. President, I promised to yield to the Senator from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Mr. President, I want to submit a few remarks upon this question.

The VICE PRESIDENT. The Chair is in doubt as to whether the Senator from Arkansas yielded the floor.

Mr. LODGE rose.

Mr. HEFLIN. If the majority leader is ready to adjourn until Friday at 12 o'clock, I am willing to yield for that purpose.

Mr. LODGE. I do not think the Senator from Alabama has the floor.

Mr. CARAWAY. I yield the floor.

Mr. HEFLIN. The Senator from Arkansas yielded to me.

Mr. LODGE. The floor can not be handed over by one Senator to another. A Senator has to be recognized by the Chair.

Mr. HEFLIN. He yielded to me, and then I proceeded in my own time.

The VICE PRESIDENT. The Chair was trying to find out whether the Senator from Arkansas yielded the floor.

Mr. CARAWAY. I yielded to the Senator from Alabama; I yield the floor.

Mr. LODGE. Mr. President—

The VICE PRESIDENT. If the Senator from Arkansas has yielded the floor, the Chair is going to recognize the Senator from Massachusetts.

Mr. HEFLIN. Then we ought to have a quorum. Very well; if the Senator wants to make a motion, I will withhold my point of no quorum.

ADJOURNMENT OVER THANKSGIVING DAY.

Mr. LODGE. Mr. President, I am satisfied from the inquiries I have made on both sides of the Chamber that it would be almost impossible to get a quorum in the Senate to-morrow, and I think we ought to adjourn over Thanksgiving Day. I move that when the Senate adjourns to-day it be to meet on Friday next at 12 o'clock.

The motion was agreed to.

The VICE PRESIDENT. The Chair will recognize the Senator from Alabama now if he desires recognition.

Mr. LODGE. Unless Senators desire to continue the debate—

Mr. HEFLIN. What was the motion? I was interrupted when the Senator from Massachusetts made a motion.

The VICE PRESIDENT. The motion was that when the Senate adjourns it be to meet on Friday, and the motion has been put and carried.

Mr. LODGE. Unless Senators desire to remain here to carry on the debate—

Mr. HEFLIN. I have no desire to speak now, if it is the wish of the Senate to adjourn.

Mr. LODGE. Very well; then I move that the Senate adjourn.

The motion was agreed to, and the Senate (at 4 o'clock and 55 minutes p. m.) adjourned until Friday, December 1, 1922, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, November 29, 1922.

The House met at 11 o'clock a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our heavenly Father, as we are now approaching our national festival day, in which labor ceases and our firesides are made radiant with the joy of thanksgiving, in the sanctity of this quiet moment we would breathe: "Praise ye the Lord!" For the sacrifices, services, and the traditions of our forefathers we give Thee thanks; for the preservation of our free institutions we bless Thee; for bread enough and to spare we offer Thee our tributes of gratitude. Bless our President, the judicial and legislative branches of our Government, and may the spirit of Thy wisdom dwell with them. Be with all governors of the States and all who interpret the laws of our land. Direct our country on its errands of helpfulness. O let us work that which is good toward all men. May the law of justice be in our Nation's conscience, the law of truth in our country's will, the law of love in all hearts and the law of self-denial in all lives. O may the spirit of the Lord God be in the very soul of our Republic. May ignorance and intolerance fade away as the night

before the dawn. Bless all schools, all instruments of education, and all institutions of beneficence. O abide with our Republic and may it always be a defender of the helpless, an example for the oppressed, and a Christian light for the world. Amen.

The Journal of the proceedings of yesterday was read and approved.

THE MERCHANT MARINE.

Mr. GREENE of Massachusetts. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 12817.

The question was taken; and on a division (demanded by Mr. GARRETT of Tennessee) there were 36 yeas and 22 noes.

Mr. GARRETT of Tennessee. Mr. Speaker, I object to the vote on the ground that there is no quorum present.

The SPEAKER. Evidently there is no quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will bring in the absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 229, nays 99, answered "present" 1, not voting 103, as follows:

YEAS—229.

Anderson	Fairfield	Larson, Minn.	Reed, N. Y.
Andrew, Mass.	Faust	Lawrence	Rhodes
Andrews, Nebr.	Fenn	Layton	Ricketts
Appleby	Fess	Lea, Calif.	Riddick
Arentz	Fish	Lee, N. Y.	Roach
Atkeson	Foster	Lehlbach	Robertson
Bacharach	Frear	Lineberger	Rogers
Barbour	Free	Little	Rose
Beck	Freeman	Longworth	Rosendale
Beedy	Frothingham	Luce	Sanders, Ind.
Begg	Fuller	Lubling	Scott, Mich.
Benham	Funk	McDuffie	Scott, Tenn.
Bird	Gahn	McFadden	Shaw
Bixler	Gernerdt	McLaughlin, Mich.	Shelton
Bland, Ind.	Gifford	McLaughlin, Nebr.	Siegel
Boles	Glynn	McLaughlin, Pa.	Sinclair
Bond	Gorman	McPherson	Slemp
Bowers	Graham, Ill.	MacGregor	Smith, Idaho
Brooks, Ill.	Graham, Pa.	MacLafferty	Snell
Brooks, Pa.	Greene, Mass.	Madden	Snyder
Brown, Wis.	Greene, Vt.	Magee	Speaks
Burdick	Griest	Maloney	Sproul
Burton	Hadley	Mapes	Stafford
Butler	Hardy, Colo.	Merritt	Stephens
Cable	Haugen	Michener	Strong, Kans.
Campbell, Kans.	Hawley	Mills	Strong, Pa.
Campbell, Pa.	Hays	Millsbaugh	Summers, Wash.
Cannon	Henry	Mondell	Sweet
Chalmers	Hersey	Montague	Swing
Chandler, N. Y.	Hickey	Montoya	Taylor, N. J.
Chindblom	Hicks	Moore, Ill.	Taylor, Tenn.
Clague	Hill	Moore, Ohio	Temple
Clarke, N. Y.	Hoch	Moore, Ind.	Thorpe
Clouse	Hogan	Morgan	Tilson
Cole, Iowa	Hul!	Morin	Timberlake
Cole, Ohio	Humphrey, Nebr.	Mott	Tincher
Colton	Husted	Murphy	Towner
Connolly, Pa.	Hutchinson	Nelson, Mo.	Underhill
Cooper, Ohio	Ireland	Nelson, A. P.	Vare
Cooper, Wis.	James	Nelson, J. M.	Voigt
Coughlin	Jeffers, Nebr.	Newton, Minn.	Volk
Crago	Johnson, Wash.	Norton	Volstead
Cramton	Kahn	O'Connor	Walters
Crowther	Kearns	Paige	Ward, N. Y.
Curry	Keller	Parker, N. J.	Watson
Dale	Kelly, Pa.	Parker, N. Y.	Watson
Dallinger	Kendall	Patterson, Mo.	Webster
Darrow	Kennedy	Patterson, N. J.	White, Kans.
Dempsey	Ketcham	Perkins	White, Me.
Dickinson	Kiess	Perlman	Williams, Ill.
Dowell	King	Petersen	Williamson
Dupré	Kirkpatrick	Porter	Woodruff
Echols	Kissel	Pringley	Wurzbach
Edmonds	Kline, Pa.	Purnell	Wyant
Elliott	Knutson	Radcliffe	Young
Ellis	Kopp	Ransley	
Evans	Kraus	Reber	
Fairchild	Lampert	Reece	

NAYS—99.

Abernethy	Dominick	Lankford	Sandlin
Almon	Doughton	Larsen, Ga.	Sears
Aswell	Drewry	Lazaro	Smithwick
Bankhead	Driver	Lee, Ga.	Steagall
Barkley	Favrot	London	Stedman
Bell	Fields	Lowrey	Stevenson
Black	Fisher	Lyon	Stoll
Bland, Va.	Fulmer	McClintic	Summers, Tex.
Blanton	Garner	McSwain	Swank
Bowling	Garrett, Tenn.	Mansfield	Tague
Box	Garrett, Tex.	Mead	Taylor, Colo.
Briggs	Gilbert	Moore, Va.	Thomas
Buchanan	Goldsborough	O'Brien	Tillman
Bulwinkle	Hammer	Oldfield	Turner
Burke	Hardy, Tex.	Oliver	Tyson
Byrnes, S. C.	Harrison	Parks, Ark.	Upshaw
Byrnes, Tenn.	Hayden	Pou	Vinson
Carew	Hooker	Quin	Ward, N. C.
Carter	Huddleston	Rainey, Ala.	Weaver
Collier	Jeffers, Ala.	Raker	Wilson
Collins	Johnson, Ky.	Rankin	Wingo
Connally, Tex.	Jones, Tex.	Rayburn	Wise
Crisp	Kincheloe	Rouse	Woods, Va.
Davis, Tenn.	Kindred	Rucker	Wright
Deal	Lanham	Sanders, Tex.	

ANSWERED "PRESENT"—1.

Sabbath

NOT VOTING—103.

Ackerman	Focht	Kunz	Ryan
Anson	Fordney	Langley	Sanders, N. Y.
Anthony	French	Leatherwood	Schall
Blakeney	Gallivan	Linthicum	Shreve
Brand	Gensman	Logan	Sinnot
Brennan	Goodykoontz	McArthur	Sisson
Britten	Gould	McCormick	Smith, Mich.
Brown, Tenn.	Green, Iowa	McKenzie	Steenerson
Burroughs	Griffin	Mann	Stiness
Burtness	Hawes	Martin	Sullivan
Cantrill	Herrick	Michaelson	Taylor, Ark.
Chandler, Okla.	Himes	Miller	Ten Eyck
Christopherson	Huck	Mudd	Thompson
Clark, Fla.	Hudspeth	Newton, Mo.	Tinkham
Classon	Hukriede	Ogden	Treadway
Cockran	Humphreys, Miss.	Opp	Tucker
Codd	Jacoway	Osborne	Vaile
Copley	Johnson, Miss.	Overstreet	Vestal
Cullen	Johnson, S. Dak.	Park, Ga.	Wheeler
Davis, Minn.	Jones, Pa.	Rainey, Ill.	Williams, Tex.
Denison	Kelley, Mich.	Ramseyer	Winslow
Drane	Kitchin	Reed, W. Va.	Wood, Ind.
Dunbar	Kleeska	Riordan	Woodyard
Dunn	Kline, N. Y.	Rolsion	Yates
Dyer	Knight	Rosenberg	Zihlman
Fitzgerald	Kreider	Rosenbloom	

The Clerk announced the following pairs:

On this vote:

Mr. Mann (for) with Mr. Sabbath (against).
 Mr. McArthur (for) with Mr. Clark of Florida (against).
 Mr. Codd (for) with Mr. Cockran (against).
 Mr. Smith of Michigan (for) with Mr. Taylor of Arkansas (against).

Mr. Osborne (for) with Mr. Jacoway (against).
 Mr. Dunbar (for) with Mr. Brand (against).
 Mr. Ryan (for) with Mr. Williams of Texas (against).
 Mr. Burroughs (for) with Mr. Kitchin (against).
 Mr. Kreider (for) with Mr. Overstreet (against).
 Mr. Newton of Missouri (for) with Mr. Hudspeth (against).
 Mr. Dunn (for) with Mr. Humphreys of Mississippi (against).

Until further notice:

Mr. Focht with Mr. Logan.
 Mr. Davis of Minnesota with Mr. Cullen.
 Mr. Jones of Pennsylvania with Mr. Kunz.
 Mr. Dyer with Mr. Hawes.
 Mr. Denison with Mr. Gallivan.
 Mr. Reed of West Virginia with Mr. Sisson.
 Mr. Shreve with Mr. Cantrill.
 Mr. Ramseyer with Mr. Martin.
 Mr. Michaelson with Mr. Drane.
 Mr. Langley with Mr. Tucker.
 Mr. Fordney with Mr. Sullivan.
 Mr. Thompson with Mr. Linthicum.
 Mr. McKenzie with Mr. Park of Georgia.
 Mr. McCormick with Mr. Riordan.
 Mr. Stiness with Mr. Rainey of Illinois.
 Mr. Winslow with Mr. Johnson of Mississippi.
 Mr. Rosenbloom with Mr. Griffin.

The result of the vote was announced as above recorded.

The doors were opened.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union with Mr. TILSON in the chair.

The Clerk reported the title of the bill.

The Clerk read as follows:

TITLE VII.—MISCELLANEOUS PROVISIONS.

TRANSPORTATION BY WATER OF GOVERNMENT OFFICIALS.

SEC. 701. (a) Any officer, employee, or agent of the United States, including legislative, judicial, diplomatic, and consular officers, and officers serving in the military or naval forces of the United States, traveling by water, when the expense of such passage is chargeable directly or indirectly to the United States, shall when practicable travel in a public vessel of the United States or a vessel registered, or enrolled and licensed, under the laws of the United States. When passage in such a vessel is not practicable, the voyage may be made in a vessel under a foreign flag only when specifically ordered by the head of the department or other Government establishment concerned or upon order specifically approved by such head of department or other Government establishment, who shall as promptly as possible report each such voyage made in a vessel under a foreign flag, together with the reasons showing necessity therefor, to the board.

(b) Any person subject to the provisions of subdivision (a) who fails to comply therewith in respect to the passage taken shall not be reimbursed for such passage money, or shall be surcharged in his accounts with the United States with the amount thereof, as the case may require.

Mr. DAVIS of Tennessee. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. DAVIS of Tennessee: Page 57, line 13, after the words "to the" strike out the word "board" and insert in lieu thereof the following: "the appropriate official in the Government department of which he is a member."

Mr. DAVIS of Tennessee. Mr. Chairman, I am in full sympathy with the general principle of this section. I think that all Government officials should be required to travel upon American ships whenever possible. My amendment provides that whenever they can not travel on American ships and do travel on a foreign ship, and make a report of the reason why they did so, they should not be required to make such report to the Shipping Board, but they should make it to their own department. The section provides that any officer, employee, or agent of the United States, including legislative, judicial, diplomatic and consular officers, and officers serving in the military or naval forces of the United States, traveling by order, when the expense of such passage is chargeable directly or indirectly to the United States, must make their report not to their own departments but to this all-powerful, autocratic Shipping Board, and that Shipping Board is to determine whether or not they were justified in making such passage, and they are thus given the power to determine whether or not the traveling expenses of such officials shall be paid. I say that no such power should be lodged in the Shipping Board. I say that the powers of other departments of the Government should not be thus invaded, and that such report should be made to the proper official of the department of which the traveling official is a member. That is what my amendment proposes to do, and that is all.

Mr. EDMONDS. The gentleman's amendment, if he wishes to accomplish what he proposes, is not necessary. Any employee who wants to travel in a foreign vessel under this act is required to report to his department and get orders to do so. The only reason the report is made to the board is for the purpose of finding out whether it was necessary for him to do so, and the only place you can find that out is in the board. The board can report back then to the head of the department and say whether he should have taken a foreign ship. If the gentleman wants to make the statement that this is something new for the autocratic board, to say whether a man can travel in a ship or not, then let anyone read the section, and he will see that it is not so.

Mr. LEHLBACH. Mr. Chairman, will the gentleman yield?

Mr. EDMONDS. Yes.

Mr. LEHLBACH. Is not the gentleman from Tennessee [Mr. DAVIS] in error when he says that the officer, employee, agent, and so forth, must report to the Shipping Board? Does not the section say that the report shall be made to the head of the department?

Mr. EDMONDS. That is correct.

Mr. LEHLBACH. And the head of the other department is the sole person who may order these people to travel on the foreign ships.

Mr. EDMONDS. That is correct.

Mr. LEHLBACH. And the only report made to the Shipping Board is of that fact, not by the subordinate but by the head of the department, so that the board may have a record of it.

Mr. EDMONDS. That is correct.

Mr. DAVIS of Tennessee. But I call attention to the fact that, in lines 11 and 13, this section expressly provides—

who shall as promptly as possible report each such voyage made in a vessel under a foreign flag, together with the reasons, showing necessity therefor, to the board.

The very next section provides that they shall not be paid unless the reasons are accepted.

Mr. EDMONDS. Will the gentleman read lines 9 and 10?

Mr. DAVIS of Tennessee. Oh, yes; they may also report, but the final report is to be made to the Shipping Board.

Mr. EDMONDS. By the head of the other department. That is what it says—by the man who gives them permission to ride on a foreign ship. He makes the report to the Shipping Board.

Mr. DAVIS of Tennessee. It says—

when specifically ordered by the head of the department or other Government establishment concerned or upon orders specifically approved by such head of department or other Government establishment.

That is, when he is ordered to make the trip.

Mr. EDMONDS. Yes.

Mr. DAVIS of Tennessee. But the report of his reasons for traveling on a foreign ship shall be made to the board.

Mr. EDMONDS. By the head of the department.

Mr. DAVIS of Tennessee. Oh, no.

Mr. EDMONDS. It so says.

Mr. DAVIS of Tennessee. I do not agree with the gentleman; but suppose that to be true, why should the head of any other department be required to make these reports to the Shipping Board?

Mr. EDMONDS. In order to determine whether the board could have supplied the transportation.

Mr. DAVIS of Tennessee. Yes; as I say, in order for the Shipping Board to determine the reason.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Tennessee.

The amendment was rejected.

Mr. BANKHEAD. Mr. Chairman, I move to strike out the last word. Yesterday afternoon just before adjournment the chairman of the committee, the distinguished gentleman from Massachusetts [Mr. GREENE], put into the RECORD a telegram received from Malcolm Stewart, chairman of the Middlewest Merchant Marine Association, sent from Milwaukee, Wis., dated November 28, indorsing in effect the provisions of this bill.

I note in a copy of the Washington Post, in a dispatch dated November 27, 1922, among other things, the statement that three of the prominent speakers who spoke in favor of the merchant marine were E. C. Plummer, of the United States Shipping Board; Matthew Hale, president of the South Atlantic State Association; and Malcolm Stewart, chairman of the committee. There is considerable significance in connection with that statement. This Malcolm Stewart, whose telegram the chairman inserted into the RECORD, is the same Malcolm Stewart who appeared before our committee in May and deliberately asserted that if this bill did not provide for at least a five-year extension of the established trade routes now operating for the benefit of the Middle West commerce, he would oppose the bill and could not give it his approval. I want to read very briefly from the record exactly what he did say in that connection. I asked him the question: Whether, if the finding of the joint committee should not approve and indorse the amendment he had suggested in the bill, to guarantee the operations of these trade routes for a period of the next five years, but left the option to the Shipping Board, as now expressed in the bill, of doing what they think proper, he would indorse the bill under those circumstances, and Mr. Stewart said that he did not believe he would.

This same Matthew Hale, who was also mentioned in connection with this telegram, when before the committee, I asked whether he would favor the passage of this bill if he thought it contemplated the sale in bulk or in gross of the entire fleet within the next 30 months without any limitation on the operation of established trade routes, and he said no; that he would not. I then asked him whether he would oppose it, and he said he would; that he had so stated many times.

Mr. EDMONDS. Will the gentleman yield?

Mr. BANKHEAD. I can not yield. These are the very same gentlemen who as representatives of their respective localities and communities offered an official amendment which I sought to have incorporated in this bill when we had that section under consideration, guaranteeing for five years the operation for the Middle West of shipping facilities for the trade routes which we had established, and it seems that Mr. Matthew Hale and Mr. Malcolm Stewart, under the sponsorship and leadership of Mr. E. C. Plummer, of the Shipping Board, traveling at Government expense, forsaking his duties in Washington, where he should be attempting to reduce the extravagant expenditures of the Shipping Board—Mr. Plummer, of the Shipping Board, has now taken those two apostates, Stewart and Hale, under his wing and has gone off and now is undertaking to sell to the citizens and taxpayers of the Middle West this 18-carat gold brick you are seeking to foist upon the people of America. [Applause].

The CHAIRMAN. The time of the gentleman has expired.

Mr. EDMONDS. Mr. Chairman, I move that all debate on this section and all amendments thereto do now close.

Mr. HARDY of Texas. Mr. Chairman, will the gentleman withhold that? I want to offer an amendment and one more parting shot. Five minutes is all I ask. I want to offer a genuine amendment.

Mr. EDMONDS. Does the gentleman want to offer a genuine amendment to the section?

Mr. HARDY of Texas. To this section.

Mr. EDMONDS. And speak to the amendment?

Mr. HARDY of Texas. I do.

Mr. EDMONDS. All right. I will move that all debate close in five minutes.

The motion was agreed to.

The CHAIRMAN. The gentleman from Texas offers an amendment which the Clerk will report.

Mr. HARDY of Texas. Mr. Chairman, I offer the amendment which is to be attached to the end of the section.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. HARDY of Texas: Page 57, after line 18, insert: "Provided, That the Shipping Board shall be authorized to prescribe reasonable rates for services performed by privately owned United States vessels under this section."

Mr. HARDY of Texas. Now, Mr. Chairman and gentlemen, here is a section of this bill which requires that every officer, employee, or agent of the United States, and any legislative, judicial, diplomatic, and consular officer shall, when it can be done, travel by a privately owned ship of the United States or upon Government ships, and the bill proposes to turn all Army and Navy transportation over to the privately owned ships. When we require by law that officials of the Government on Government service shall travel by these subsidized vessels it does seem to me that we ought to require the Shipping Board to prescribe reasonable charges for that service. Here we are transporting troops, say, to Manila, and it may be that private ships are called into requisition to do it, the law absolutely compelling the military authorities of the Army to utilize these private ships, and there is not one syllable anywhere in this bill that authorizes any department of the Government to require reasonable rates for that service. It might be that foreign ships are willing to transport those men at \$100 from San Francisco to Manila, and our privately owned ships would want \$200, but they must go that way according to this provision, and I want the proviso to be added to it providing that the Shipping Board may have the right to prescribe reasonable charges for the service. That is all, gentlemen. Mr. Chairman, I ask for a vote on the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas.

The question was taken, and the Chair announced the yeas appeared to have it.

On a division (demanded by Mr. HARDY of Texas) there were—yeas 68, yeas 93.

So the amendment was rejected.

The Clerk read as follows:

TRANSPORTATION OF GOVERNMENT SUPPLIES.

SEC. 702. All goods, wares, merchandise, and material of every nature (including supplies for the military or naval forces of the United States) belonging to or intended for the United States, transported by water, shall when practicable be shipped in a public vessel of the United States or a vessel registered, or enrolled and licensed, under the laws of the United States. When shipment in such a vessel is not practicable and the shipment is made in a vessel under a foreign flag, it shall be the duty of the officer, employee, or agent of the United States authorizing or making the shipment, within one month thereafter, to mail a written notice to the board, stating the ports of departure and destination, the date, the name of the vessel, and the reason why the shipment was not made in a public vessel or a vessel registered, or enrolled and licensed, under the laws of the United States.

The CHAIRMAN. Without objection the pro forma amendment is withdrawn.

Mr. DAVIS of Tennessee. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 58, line 6, after the words "notice to the" strike out "board" and insert in lieu thereof the following: "proper official of the Government department of which he is a member."

Mr. DAVIS of Tennessee. Mr. Chairman, this is an amendment along the same line as the one I last offered, except it refers to shipment of materials and supplies instead of passenger travel. Some gentlemen on the other side quibbled over the language of the other, but this language is plain and I want to read it for your own information:

When shipment in such a vessel is not practicable, and the shipment is made in a vessel under a foreign flag, it shall be the duty of the officer, employee, or agent of the United States authorizing or making the shipment, within one month thereafter, to mail a written notice to the board, stating the ports of departure and destination, the date, the name of the vessel, and the reason why the shipment was not made in a public vessel or a vessel registered, or enrolled and licensed, under the laws of the United States.

Now, my motion simply is to strike out the word "board" and insert the name of the appropriate official in the department of which such officer or agent is a member.

Now, what is the consequence of this? This section provides that "All goods, wares, merchandise, and material of every nature (including the supplies for the military or naval forces of the United States) belonging to or intended for the United States, transported by water, shall, when practicable, be shipped," and so forth, and no exception is made in case of war. Consequently, if we should become involved in war and the Navy or the Army desires under the preceding section to transport troops, or under this section desires to ship munitions or any other supplies and it is necessary to do so upon a foreign ship, or upon a ship of an ally in the war, they would be required, even in the midst of war, to make a report of their reasons and all about it to this autocratic Shipping Board, for their approval or disapproval. Now, the question is whether you want to give such extraordinary powers to this

board, not only in time of peace but in time of war, and in respect to every branch of this Government. I ask for a vote. [Applause.]

Mr. LEHLBACH. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. LEHLBACH] is recognized in opposition to the amendment.

Mr. LEHLBACH. Mr. Chairman, the gentleman from Tennessee [Mr. DAVIS] is unduly alarmed concerning the autocratic powers given to the Shipping Board under this section. No powers whatever are given to the Shipping Board by this provision.

Mr. ANDREWS of Nebraska. Mr. Chairman, will the gentleman yield for a question?

Mr. LEHLBACH. Yes.

Mr. ANDREWS of Nebraska. When was the Shipping Board created?

Mr. LEHLBACH. In 1916, under a Democratic administration and upon the recommendation of a Democratic President.

Mr. ANDREWS of Nebraska. It is therefore autocratic? [Laughter.]

Mr. LEHLBACH. Yes; it is therefore autocratic.

No power is given to the Shipping Board to control any shipment of supplies or goods by any department of the Government whatsoever. The only thing this section provides is that where it is necessary for an official of the Government to ship supplies or goods on foreign vessels he shall report that fact to the Shipping Board, in order that the board may have information that the American Government has not facilities for shipment at that place, so that this board may, upon the information brought home to it of the necessity for American service at that point, take appropriate action to provide it.

I move, Mr. Chairman, that all debate on this section and all amendments thereto close in five minutes, those five minutes to be used by the gentleman from Texas [Mr. BLANTON].

The CHAIRMAN. In the confusion the Chair did not catch the wording of the gentleman's modified motion.

Mr. LEHLBACH. I did not modify it. It is the original motion, that all debate on this section and all amendments thereto be closed in five minutes, the five minutes to be used by the gentleman from Texas [Mr. BLANTON].

Mr. LONGWORTH. That would require unanimous consent, but I give mine.

Mr. CLARKE of New York. I rise in opposition to that proposal. [Laughter.]

The CHAIRMAN. The proposal is not debatable. Is there any point of order raised against the form of the motion? If not, the Chair will put it. The question is on agreeing to the motion of the gentleman from New Jersey.

The motion was agreed to.

The CHAIRMAN. The gentleman from Texas [Mr. BLANTON] is recognized for five minutes.

Mr. BLANTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. There is an amendment already pending.

Mr. BLANTON. I offer it for information.

The CHAIRMAN. Without objection, then, the amendment will be read for the information of the House. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BLANTON: Page 57, line 20, strike out all of section 702.

Mr. BLANTON. Mr. Chairman, I hope the House will not tie the hands of the Navy and of the Government by passing any such a provision as this section.

We have in the Navy now between 600 and 700 boats that are subject to the orders of the Secretary of the Navy in time of war. If we pass this provision we could not transport any of our military supplies in those boats without having a controversy with the shipowners concerning those ships that are subsidized by this bill. They would claim that they have the right to ship every portion of our military supplies and be paid for it by the Government, notwithstanding the fact that the Government has 600 or 700 naval ships upon which many of these supplies could be shipped.

That is just an illustration of the way in which we are seeking to tie the hands of this Government at the expense of the people of this Nation.

Mr. EDMONDS. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. In just a moment. Strange as it may seem, I find myself in direct accord, for one time at least, with the American Federation of Labor and with Mr. Samuel Gompers. I want to commend every single suggestion that he this morning made to every Member of this House with reference to this bill.

What did he suggest? Let me read a few of his suggestions. He says that he is convinced that in the recent election the country displayed its hostility to this subsidy. He says that after careful study the American Federation of Labor has failed to find anything in this bill that is constructive and helpful, and that he condemns it without reservation. He says—

Mr. EDMONDS. Mr. Chairman, will the gentleman yield there?

Mr. BLANTON. He says that the debate has served only to increase his condemnation. He says we are expending the people's money stupidly, if not criminally. He says that in order to pass this bill the shipping interests have used methods more subtle than bribery. He says that the bill is the most brazen Treasury-looting scheme ever devised. He says that the framers of this measure have wrongfully sought to take refuge in patriotism. He says that labor denounces this bill as a fraud and as a robbery and as wholly indefensible, and for one time in my life I say "Amen" to every single suggestion that this distinguished president of the American Federation of Labor to-day makes to the membership of this Congress. [Applause.]

Mr. LEHLBACH. And the gentleman is now following the leadership of Samuel Gompers.

Mr. BLANTON. In this particular instance I am working in double harness, shoulder to shoulder, with the American Federation of Labor and its president to save the people of this country from the results of this awful ship subsidy bill. [Applause.]

The CHAIRMAN. The time of the gentleman from Texas has expired. All time has expired. The question is on agreeing to the amendment of the gentleman from Texas.

Mr. HARDY of Texas. Mr. Chairman, I have a perfecting amendment to the proposal to strike out. There should be a vote on mine first.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Tennessee [Mr. DAVIS].

The question being taken, the amendment was rejected.

The CHAIRMAN. The gentleman from Texas [Mr. HARDY] offers an amendment which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HARDY of Texas: Page 58, line 10, after the words "United States" insert: "Provided, that the Shipping Board shall have the right to prescribe reasonable rates and charges for services performed under this section."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas.

The question being taken, the amendment of Mr. HARDY of Texas was rejected.

The CHAIRMAN. Does the gentleman from Texas [Mr. BLANTON] insist on his motion to strike out?

Mr. BLANTON. I take it that it would be futile in the present atmosphere, so I withdraw it.

The CHAIRMAN. The gentleman asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

REPORTS BY SHIPPING BOARD.

SEC. 703. The second paragraph of section 12 of the shipping act, 1916, is amended to read as follows:

"It shall, on or before the 1st day of December in each year, make a report to the Congress, which shall include its recommendations and the results of its investigations, a summary of its transactions, a statement of all expenditures and receipts (including the merchant marine fund and the construction loan fund), and of the operations of the Emergency Fleet Corporation and of any corporation which is managed or controlled by the board, and the names and compensation of all persons employed by the board."

Mr. CARTER. Mr. Chairman, I move to strike out the last word. A great many absurd claims have, in my opinion, been made for this ship subsidy bill, but the most absurd of all is that it will benefit the farmers and laboring people of the country. The difficulty with certain gentlemen is that they underestimate the intelligence and understanding of the producing classes of this country. There may have been a time in the past when such statements would mislead the great mass of producers of this land, but the farmers and working people have learned a few things within the past few years. They know that this measure is being fostered and promoted strictly in the interests of those few persons who expect to own and operate ships, and that any assertions to the effect that the farmers and laboring people will prove the beneficiaries constitutes pure unadulterated bunk. They know that a subsidy is a sort of bonus given to some company, institution, or class for performing some alleged service on behalf of the public and that such bonus is given in addition to the regular charges made in their rates and fare. They understand that a ship subsidy is a bonus given to the ship operators for performing some alleged service and

that this bonus is paid from the Treasury of the United States. They understand that the money is placed in the Treasury of the United States from taxes which are assessed upon all the people in one way and another, and that the subsidies and bonuses carried in this bill are a donation to a class of special interests, which must be paid by taxing all others. Gentlemen representing agricultural and labor districts will have a difficult time convincing their people that they are benefited by a system which taxes money out of their pockets and places it in the coffers of the Shipping Trust and other special interests.

The best evidence of how the great producing classes of this country look upon this measure is the expression that has been given by their own organizations. Since debate began on this bill protests against the passage of any character of ship subsidy has been voiced under resolutions read into the RECORD from practically every farming organization in the United States. Protests from many labor organizations have also been presented to show their feeling in the premises, but one of the strongest arguments yet put forth is that contained in the letter of the President of the American Federation of Labor under date of yesterday. Since our friend from Texas [Mr. BLANTON] has brought himself into complete accord with union labor I would suggest that it is now appropriate to have the full letter of Mr. Gompers spread in the RECORD, and I therefore ask unanimous consent that it be read from the Clerk's desk in my time.

The CHAIRMAN. The gentleman asks unanimous consent for the reading of the letter indicated by him in his time. Is there objection?

Mr. UNDERHILL. I object.

The CHAIRMAN. Objection is made.

Mr. CARTER. Then I will read it myself.

Mr. UNDERHILL. The gentleman has the right to read it himself.

Mr. CARTER. Mr. Gompers's letter is as follows:

AMERICAN FEDERATION OF LABOR,
Washington, D. C., November 28, 1922.

SIR: Because the ship subsidy bill is to come before you on Wednesday for a vote, I take the liberty of communicating with you at this time in order to lay before you a point of view which will, I am sure, impress you as worthy of consideration.

I am convinced that the country in the recent election intended to convey, among other things, its hostility toward the proposed subsidy. However, there are others who either do not so interpret the country's decision or who do not see fit to follow the country's decision.

It is unlikely that anyone has given the subsidy bill more careful study than has the American Federation of Labor. We have tried to find if by any possibility there was anything constructive and helpful in the measure. We are bound, as the result of study, to condemn the measure without reservation.

If study of the bill itself has failed to convince labor of its soundness, the debate upon it thus far has been equally without result. Little that has been said in official circles indicates any real understanding of the subject.

When former subsidy bills were before Congress the whole cry was "Ships, ships, ships; give us ships and we will have a merchant marine." Now we have the ships and the one great question is, What are we going to do with them? We can not compete, so it is stated; and as things really are, it is largely true.

Within the last two years the shipowners and the Shipping Board have done their utmost to destroy what skill and efficiency exist on American vessels at sea. That they are doing this consciously is not conceivable. They are doing it, however, and evidently because they do not understand that the human element in shipping, as in all other competition, is the determining factor. While we are driving all the skilled men from the sea, England is drawing to herself the skilled men by her policy. This last spring England adopted the policy of gradually getting rid of inefficient men. She is doing it by a combination between the seamen themselves through their organization, the shipowners through their organization, and the board of trade. The officers on the vessels provisionally select the men, who then go to the office of the union, to be further passed upon under a regulation known as port consultant regulation No. 5. Under this system and the wages paid, she is drawing to herself the efficient men and pushing the inefficient men over to us.

When the war ended Germany had no ships. She had shipowners who knew commercial geography, and therefore were to have their ships, if possible, at a given time. She had officers and seamen who could handle ships at sea and in harbor and keep those ships out of the repair yards. She is coming back into ocean carrying with the speed of a race horse. We have the ships, but our shipowners seem to have no understanding of the world's freight market or commercial geography, nor any appreciation of the skill and efficiency needed on board of vessels, and we are spending money stupidly if not criminally. Why is it that business men who ordinarily have common sense seem to be incapable of realizing that in the competitive business success is determined by the human element to the extent of at least 75 per cent, while something less than 25 per cent is dependent upon the material element?

The subsidy bill now before you will not bring men and competence into the merchant marine. It will bring enormous sums of money into the pockets of a group of subsidized shipping financiers, and this group will constantly grow smaller under the monopoly-creating provisions of the bill.

Labor's position on the question of subsidy remains without change. The most strenuous efforts have been made to bring about a change in this position. In earlier years shipowners resorted to attempts at bribery, these being matters of official court record. I know of no such crude efforts in connection with the present bill, but in abundant measure friends of the bill have used subtler methods. Our position on this

bill, however, is based on a study of the bill itself. It is without doubt one of the most brazen Treasury-looting schemes ever devised.

And scoundrelly measures, like scoundrelly men, take refuge in patriotism when no other offers. The bill is urged on grounds of patriotism. It is difficult to think of anything more unfitting.

This bill will not give America a merchant marine, though it may give us a bankers' marine. Labor joins with all others who want a well-manned, adequate merchant marine. But it denounces this bill as a fraud, a robbery, and wholly indefensible.

Let it not be forgotten, either, that once enacted the bill must remain in force for 20 years. Contracts made for that length of time will tie the hands of future Congresses.

I am laying these views before you in behalf of the executive council of the American Federation of Labor and in conformity with the findings on the subject as approved by the last convention of the American Federation of Labor.

Sincerely hoping that the above may receive your early and favorable support, I am,

Very truly yours,

SAM'L GOMPERS,

President American Federation of Labor.

Hon. CHARLES D. CARTER,
House Office Building, Washington, D. C.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CRAMTON. Mr. Chairman, I rise in opposition to the pro forma amendment.

The CHAIRMAN. The gentleman from Michigan is recognized in opposition to the pro forma amendment.

Mr. CRAMTON. Mr. Chairman, yesterday an amendment was adopted with reference to the nonpayment of this subsidy to owners of vessels where liquors had been transported on such vessels. Of course the intent of the House was in the direction of the enforcement of our prohibitory laws. Many of us are very much afraid that the effect of the amendment, if it should become a law, would be the opposite of what was intended. There is existing a penal statute against the transportation of liquors under those conditions. That penal statute is being sustained by the courts. The provision adopted yesterday it is true is not a penal statute, but it is the imposition of a penalty by the withholding of a subsidy. It is not as strong or as far-reaching in its terms as the existing law, and the adoption of it at this time by Congress might lead to complications. On the one hand it can accomplish nothing desirable, because there is already sufficient law. On the other hand, by reason of complications that it might introduce as to what was the intention of Congress, it might even be argued that it was intended to supplant the existing penal statutes. For these reasons it is to be hoped that when the committee rises the amendment adopted yesterday will not be concurred in by the House.

Mr. LINEBERGER. Will the gentleman yield?

Mr. CRAMTON. In just one moment, when I have uttered one more sentence. I shall ask a separate vote on the amendment and hope that it will then be voted down. In that connection I invite the attention of the Members of the House to the statement of the Anti-Saloon League and the Woman's Christian Temperance Union on this matter, which I inserted in the RECORD yesterday on page 269. Now I yield to the gentleman from California.

Mr. LINEBERGER. On what page is the amendment?

Mr. CRAMTON. The amendment is on page 269.

Mr. HILL. Will the gentleman yield?

Mr. CRAMTON. I yield to the gentleman from Maryland.

Mr. HILL. I should like to ask the gentleman why it was that his orders which he received from Wayne B. Wheeler were dated Toronto, Ontario? Is the House taking orders from Canada now?

Mr. CRAMTON. The gentleman has been keeping such close watch on St. Louis, Mo., from which he has been taking his orders [laughter], that he has evidently overlooked the fact that there has been a world convention of those believing in temperance held in Toronto, Ontario.

Mr. HILL. Then is Wayne B. Wheeler now in Ontario?

Mr. CRAMTON. No; the gentleman had better watch out. Mr. Wheeler is in Washington.

Mr. HILL. And the gentleman is against this amendment?

Mr. CRAMTON. I am against it.

Mr. BANKHEAD. Will the gentleman yield?

Mr. CRAMTON. I yield to the gentleman from Alabama.

Mr. BANKHEAD. On yesterday I offered a real, bona fide prohibition amendment—

Mr. CRAMTON. Does the gentleman desire to ask a question?

Mr. BANKHEAD. The amendment of the gentleman from Pennsylvania was not a prohibition amendment, and on a separate vote in the House I trust the amendment of the gentleman from Pennsylvania will be defeated.

Mr. CRAMTON. I think the gentleman will admit that no such provision is needed in the law; that we have sufficient law already.

Mr. MILLS. Will the gentleman yield for another question?

Mr. CRAMTON. If I have the time.

Mr. MILLS. As I understand it, the House yesterday adopted an amendment to this bill relating to prohibition. Since yesterday the gentleman has heard from the Anti-Saloon League.

Mr. CRAMTON. No; the gentleman is incorrect. I heard from it yesterday, as the Record will demonstrate.

Mr. MILLS. I should like to ask the gentleman whether he is solemnly asking this House to reverse the vote taken yesterday because the Anti-Saloon League objects to that vote?

Mr. CRAMTON. Not at all, but because the action taken yesterday was undesirable; and I hope that those who are sincerely interested in this movement will not be afraid to take advantage of a little information that comes from those who are making a particular study of the question, whether they come from New York or not.

Mr. MILLS. May I say to the gentleman that I think he is asking this House to make itself ridiculous?

Mr. CRAMTON. I am sure the gentleman from New York can never make himself any more ridiculous on this question than he has for some time past.

Mr. WINGO. Mr. Chairman, I do not like to let the bill pass without saying what I think is a deserved tribute to the Republican organization in the handling of this bill. They have used considerable finesse. There were a good many weak sisters on the Republican side who were between two fires—one the outraged conscience of their constituents and the other the demands of the administration to pass this bill. It was recognized that the bill could not be passed in the form in which it was reported to the House and in which the President demanded you should pass it. So they have adopted the old scheme that those who are experienced in legislative procedure recognize of saying to those gentlemen, "Now, we are going to give you ample opportunity to show the defects of our bill and we sincerely want to meet the objections, throw it open to amendment, and give you plenty of time." Of course, there were some provisions that the leaders were willing to use for trade purposes and for skid purposes to let those gentlemen down easily into the organization pool. Some of the gentlemen, after serious consideration and prayerful consideration, believe that they can vote for it. Of course, the administration does not have much hope of this bill becoming a law, but they think by bringing it out they can get you hog tied so that in the future you will favor the legislation. They think that if they put the bill through the Senate they appreciate the wisdom of having you gentlemen hog tied, having met your captious objections, as they call it, in the consideration in the House, and when the bill is written as they really want it in conference and it comes back here you have got your feet wet, they have got you lined up with the organization, and you will take your orders, and you will follow the line of least resistance and continue to vote with the gang and vote for the conference report, although it may contain some of the objectionable features which you have fought the last few days and which you will advertise to your constituents as a great victory on your part.

The tragedy of the bill is that instead of building up an independent merchant marine—and if it did do that there would be some justification for you gentlemen in voting for the infamous scheme—but the tragedy of it is that instead of building up an independent merchant marine it will tend to prevent the building up of an independent merchant marine; and this bill, if it becomes a law, would have only one net result, and that would be that under the specious plea of building up an independent merchant marine you would have paid out of the Treasury a subsidy to gentlemen who do not need it and who are not moved by patriotic motives when they ask you to give them this grab and this raid on the Treasury. [Applause.]

Mr. EDMONDS. Mr. Chairman, I move that all debate on this section and all amendments thereto be now closed.

The CHAIRMAN. The gentleman from Pennsylvania moves that all debate on this section and amendments thereto be closed.

The motion was agreed to.

The CHAIRMAN. Without objection, the pro forma amendment is withdrawn and the Clerk will read.

The Clerk read as follows:

RATES OF INTERSTATE WATER CARRIERS.

SEC. 704. The last three paragraphs of section 18 of the shipping act, 1916, are amended to read as follows:

"Every such carrier shall file with the board and keep open to public inspection, in the form and manner and within the time prescribed by the board, the rates, fares, and charges for or in connection with transportation between points on its own route; and if a through route has been established, the rates, fares, and charges for or in connection with transportation between points on its own route and points on the route of any other carrier by water.

"No such carrier shall demand, charge, or collect a greater or less compensation for such transportation than the rates, fares, and charges filed in compliance with this section, except with the approval of the board and after 15 days' public notice in cases of increases and 5 days' public notice in cases of reductions, in the form and manner prescribed by the board, stating the increases or reductions proposed to be made; but the board for good cause shown may waive such notice.

"Whenever the board finds that any rate, fare, charge, classification, tariff, regulation, or practice, demanded, charged, collected, or observed by such carrier is unjust or unreasonable, it may determine, prescribe, and order enforced the just and reasonable rate, fare, or charge, or the maximum or minimum, or the maximum and minimum, to be charged, or the just and reasonable classification, tariff, regulation, or practice."

Mr. ANDREW of Massachusetts. Mr. Chairman, some surprise has been expressed that a Representative from Massachusetts on this side of the House should keep an open mind upon the merits or demerits of this bill. The obvious and perhaps expected course for such a Member to follow—the easiest way—is to support this bill. To me that course appeals very strongly because the bill is sponsored by my beloved and respected colleague, the dean of the Massachusetts delegation. But no Member wants to see a bill put through which involves a large expenditure of the public money unless he is convinced that that expenditure will bring at least an equal return, and will not constitute a bad precedent for future legislation. Nor ought it to be assumed that all of the Representatives from a particular section of the country must inevitably think exactly alike upon all public questions. It will be a very unfortunate day for this country of ours, if ever it arrives, when the representatives of particular geographical sections all come to think and vote together like mechanical automatons. It will mark the end of our United States.

I can claim no expert knowledge upon this question. There is nothing that I can add to what has been said. But I have followed the debates on both sides with intense interest, and I have reluctantly come to a different conclusion from many, or most, or perhaps all of my New England colleagues. I believe that this bill, which involves a possible expenditure of a billion dollars of the people's money during the next decade, is not likely to reduce shipping charges substantially or bring an equivalent benefit to the country as a whole. And I believe that, if adopted, it will offer another precedent in the way of Federal aid and paternalism which will plague us for the rest of our days. I should like the privilege of presenting to the House very briefly my reasons for voting against this measure.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to extend his remarks in the Record. Is there objection?

There was no objection.

Mr. ANDREW of Massachusetts. The ship subsidy bill has been greatly modified during the last three days and has been substantially bettered on the floor of the House through the elimination of several of its most objectionable features. When the committee presented the bill to the House last week one provision was that \$125,000,000 of Government money could be loaned to shipbuilders for 15 years at a rate as low as 2 per cent. If this had been adopted, it would have offered a precedent for Government lending rates that would have been seized upon by many other prospective Government beneficiaries. Fortunately, although the Government shipbuilding loan provision still remains in the bill, the minimum rate for such loans has now been raised to 4½ per cent.

Another provision was that shippers of goods on American vessels could deduct from their income taxes 5 per cent of all shipping charges. This would probably have exempted the majority of the most important shippers from all payment of income taxes whatever, but this indirect subsidy to shippers has been altogether eliminated.

Another provision of the bill offered to industrial corporations, like the Standard Oil Co. or the United States Steel Corporation, which operate their own ships, both direct and indirect subsidies for carrying their own merchandise (an out and out subsidy in cash and an income tax rebate as vessel owners). This would have resulted in paying millions of dollars to such corporations as those mentioned, but the bill has now been so modified that such corporations will receive no direct subsidy. They will, however, still receive a disguised subsidy in the form of a rebate upon their income taxes as shipowners during a period of nine years.

The bill is much less objectionable in its details than it was when this discussion opened three days ago, but I believe that it still offers a dangerous precedent, which, if adopted, will bound us for years to come. I am inclined to believe that the time has now come when we ought to consider, first of all, the interest of the heavily burdened and long-suffering taxpayers, and when we ought, on that account, to think very seriously before opening up new channels for Federal aid. If we do not,

then very soon everybody in the country will be getting Federal aid and no one will be as well off as he was before. I can not help thinking that in the present stage of our economic development commercial, financial, and industrial undertakings ought to stand on their own, ought to sail under their own power, and ought not to look to the Government to help pay their running expenses. It seems to me time that we begin to re-inspire ourselves with the spirit of self-reliance which animated our forefathers. When they settled these shores and pushed on through the West and transformed the wilderness and the prairies into a thriving continent they did not look to others to assume the risks and to pay their way. The sooner our people recover some of that ancestral spirit of self-reliance and self-help the better it will be for us all.

It is one thing for the Government to build highways or dig canals or make river and harbor improvements or reclaim arid lands. Those are permanent additions to the capital of the country; but it is another and very different thing for the Government to use the taxpayers' money to pay the running expenses of particular businesses, and that is what this bill proposes to do.

Under the guise of getting rid of ships constructed by the Government during the war, this bill proposes to establish a whole program of Government aid to meet the running expenses of different businesses. It proposes to lend Government money to ship buyers and to shipbuilders for 15-year periods at 4½ per cent, and to give Government money each year for a period of at least 10 years to shipping companies, both in the form of payments in actual cash and in the form of income-tax rebates. It sets aside for this purpose one-tenth of all our customs dues, which would mean about forty-five million this year and not improbably sixty or more million in years to come, and to add to this sum all tonnage dues, which are at once to be doubled. These funds, together with the income-tax rebates and the ship-construction fund might easily aggregate a billion dollars in the next 10 years, which means that the bill proposes to authorize a billion-dollar gift from the taxpayers' money to help meet the running expenses of private individuals and corporations, and no one has ever ventured to claim that this measure will substantially reduce shipping charges and give an equivalent benefit to shippers as a whole. It has been claimed rather that the subsidy was only a kind of adjusted compensation which would equalize the profits of American steamship lines. I believe that those who are the guardians of the people's money when confronted with such proposals to enter upon new lines of expenditures and fresh fields of paternalism might well say with the hero of Verdun, "They shall not pass." If we do not say so now or soon, we are likely to regret it for the rest of time.

As for the 1,500 Government vessels built during and after the war which we still have upon our hands, my suggestion would be this: Let us give instructions to the Shipping Board to sell as many as they can to American citizens during the next two or three years, when in all likelihood ocean traffic will increase, and then scrap the rest. The low price at which these vessels may be sold is of itself a not unsubstantial subsidy for our merchant marine.

Mr. EDMONDS. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amendment offered by Mr. EDMONDS: Page 58, strike out section 704.

Mr. EDMONDS. Mr. Chairman, the other day when explaining the bill I stated to gentlemen that when we arrived at this particular section I would move to strike it out. The section was originally intended to regulate the competition that was occurring between the Atlantic and Pacific coasts, which was driving the smaller and less financially strong operators out of business. My colleagues, Mr. HARDY and Mr. BANKHEAD, on the committee suggested that we ought to have some hearings, and as this has an effect in a number of other directions that possibly would not be beneficial, I want to strike it out now, so that at a later date we can have full hearings on the subject and find out what would happen if it were put into effect.

Just a word in regard to the remarks of my friend from Massachusetts, Mr. ANDREW. He objects to paternalism, but he is in favor of Government ownership, which is a rather peculiar thing to me.

Mr. BARKLEY. Mr. Chairman, I dislike to inflict myself on the House at this time, because I recognize the impatience of Members to get to a vote. However, I do not desire this bill to reach its conclusion without expressing my opposition to it.

Mr. Chairman, it is astonishing to observe the callous indifference of this administration to the sentiments of the

American people. Just a few weeks ago there was an election in this country. It recorded the greatest political turn-over in the history of the Nation. That repudiation was overwhelming, and was caused by the universal disapproval of the record made since the beginning of the Harding administration.

One of the things which this Congress ought to realize was condemned by the people is this ship subsidy bill. Although it had not been enacted, it was and is one of the chief corner stones of this administration's shifting policies, and the American people passed on it as unerringly as if it had been already enacted into law.

They knew then, as they know now, that it is a fraud; that it is proposed in the interest of private shipowners at the expense of the American taxpayers. They knew then, as they know now, that this spurious makeshift will not preserve nor maintain the American merchant marine for the benefit of all the interests of the Nation, but that it robs the masses of the people to enrich a small group. They knew then, as they know now, that linking this subsidy up with the tariff subsidy, also given to a little group of selfish campaign contributors, instead of stimulating our merchant marine it will stifle it and handicap it beyond even the fears of those who have attempted to warn against it. Ships can not prosper unless they carry cargoes both going and coming across the ocean. There has never been a merchant marine of any nation that could maintain itself by carrying freight only one way and riding the waves empty on the return. Under the blighting influence of the Fordney tariff there will be precious little freight for our ships to bring back from abroad, and this fact will also reduce the amount they can carry from our shores to the world's markets. We can not expect to have the markets of the world open to us if we close ours to other nations. Consequently this policy of narrow provincialism will depress our foreign commerce, as it has already done, and make it difficult for our great merchant marine, built up at a cost of \$3,000,000,000, to maintain itself under conditions that are honorable and appropriate. Now it is proposed to give them out of the Treasury enough money to make up for their losses on account of reduced cargoes. Having given a subsidy in the tariff to a little group of Americans who do not want our ships to carry freight, this Congress now proposes to make the American people pay the shipowners enough out of the Treasury to compensate them for hauling cargoes that do not exist and can not exist under such a foolish policy.

I do not propose to lend myself to such an outrage, and while the measure may go through this House, I hope the Senate will kill it. It is not too late for even a repudiated Congress to do one sensible thing before it expires. [Applause.]

Mr. YATES. Mr. Chairman, commenting upon what the gentleman from McCracken County, Ky. [Mr. BARKLEY], has just said, I desire to recall the attention of the House to an old story. The story is that once upon a time the proprietor or manager of a cotton field conceived a bright and happy idea, which was that a monkey might be taught to pick cotton. He started in on the experiment, and it was almost a success. The monkey was a willing worker, very industrious. He gave his whole mind to the subject. There was only one trouble, and that was that he did not recognize any geographical distinctions or limitations or boundaries, and when he got to the end of the field, instead of going back on the next row, he just hopped over the fence and plucked the neighbor's cotton, which was not in the bargain. So that, although he was very industrious, he was somewhat of a disappointment.

Mr. BARKLEY. Mr. Chairman, will the gentleman yield?

Mr. YATES. Oh, no; I can not yield. The recent election reminds me of that story. Far be it from me to compare the American voter to a monkey. I do not mean that, and you can not say that I did. I seek his vote and will continue to seek it, but when he got through cotton picking in New York and New Jersey and in Indiana and Michigan and Minnesota and Wyoming he just calmly hopped over the fence and landed in a beautiful cotton plantation called Ohio. There he proceeded to pick all of the nice delicate blooms from a lively boomlet for the Presidency, being nurtured and tenderly cared for in the broad fields of one POMERENE. [Laughter.] Then, after three or four more lively skips, he landed in Nebraska, and there he picked all of the delicate blooms from another boomlet, cherished and fondly cultivated by one HIRCHCOCK.

Mr. BARKLEY. What about Beveridge, of Indiana?

Mr. YATES. Oh, wait a minute. I object to being interrupted by McCracken County. [Laughter.] Then, when he got through with Nebraska, he hopped over into Texas and brought back WURZBACH, Republican Member reelected. [Applause on Republican side.]

Now, if you gentlemen on the Democratic side can get any consolation out of this last election, you are welcome to it.

You were licked just exactly where it hurt the most. I have some right to say a few words, because I am here with a majority of 276,000 from the State of Illinois. It does amuse me—

Mr. UPSHAW rose.

Mr. YATES. No; I can not yield to the gentleman from Georgia. It does amuse me, day after day, hour after hour, to hear gentlemen on the Democratic side who have not gained a real thing but who have lost a lot of Presidential boomlets, get up here and talk about the reverses of the Republican Party and attempt to sympathize with us in regard to the matter. [Laughter.]

The fact of the case is that there was no reversal. In 1920 the American people, by a verdict unprecedented, wiped out Woodrow Wilson and all of his works, root and branch. [Applause.] But there was a swing of the pendulum, and it had to come back. As far as I am concerned, I am glad to say, owing to the fact which I have stated before that both of my parents were born in Kentucky and grandparents in Virginia, I am glad to see you come back, gentlemen, and the gentlemen over there who are going out never expected anything else. [Laughter.] There has not been any reversal. There was just one swing of the pendulum; and two years from now, in spite of our great regard for you, we are going to wipe you out again, root and branch. [Applause.]

Mr. STEVENSON. Mr. Chairman, we have now gotten down to the point where the political effect of this thing is being considered. I have not heard anything about that up to this time; but, speaking of the political effect, I want to cite you to an authority on that subject. The gentleman from Wisconsin [Mr. FREAR] preached a sermon over here the other day and called for repentance for all the evil deeds contemplated here, but he did not tell you what would happen. I want to read you what is going to happen to you, because I have always noticed it did not matter how much the preacher preached about repentance, it did not have any effect until he pointed out what you would suffer if you did not repent. [Applause.] There has never been a time when you attempted to pass one of these bills except at a session of Congress after an election. They did it in 1873, after the election of 1872. They tried it in 1891, after the election of 1890, and they undertook to do it in 1901, after the election of 1900, and now you are trying it again after you have been licked. Now let us read what the distinguished gentleman from Illinois—ancient history—JOSEPH G. CANNON, said in the Forty-fifth Congress about what will happen to fellows and had happened to folks who would vote for this sort of thing. Here is what he said:

The subsidizing of these steamship lines, from the Collins Line in 1852 up to the present time, has bankrupted every prominent man that has favored it. The political ghosts of departed politicians that have squandered the money of the people for this kind of unwarrantable expenditure from the Treasury rise up and warn Representatives to avoid the errors heretofore committed by our predecessors.

[Applause.]

Now, that is the opinion of the distinguished sage of Illinois; and if any of you do not believe he is a politician, you go and look at his record of having stayed here longer than anybody else in the world ever has been here, and nobody else will ever hereafter equal his term of service, and you should accept his word spoken when he was in full vigor.

Mr. YATES. That was because he was a Republican.

Mr. STEVENSON. And Republicans are surely good politicians, but they lost their heads this time, and they are driving as straight to the devil as possible and will not heed his words of warning. Now, the gentleman talks about booms that have been canceled. They started a good one out in Indiana, and Mr. Ralston, it seems to me, canceled one of Mr. Beveridge's. We have gone over into West Virginia and canceled a good deal of Republicanism over there. We have even carried the State of New Hampshire and retired one Congressman from that State; and I suggest, if the gentleman is satisfied with that, he will consent to a judgment by default for the same kind of result in 1924.

Mr. CLARKE of New York. Mr. Chairman, another pair of World War waifs have been found on the front doorstep of the Harding administration, and the names given them were ships—wooden and steel (correct spelling, steal).

In trying to trace their ancestry, no proud father arises to exclaim, "I am the man," but we have located their dejected mother, Mrs. Willful Wanton Waste; the grandmother was "too proud to fight" and the grandfather was "neutral in thought and act," all prominent officeholders in the previous Democratic administration.

At the official christening or launching of steel and wooden ships came two prominent figures who loomed larger on the horizon short years ago than now, the one, genial Newton B.,

Secretary of War, the man in charge of our national fighting right arm, a man who boasted he had "never even fought with wooden soldiers"; the other sprang full armed and equipped for the fray from a North Carolina editorship, in command of our national fighting left arm as Secretary of the Navy, the delightfully delicious Sir Josephus.

With an abandon that knew no bounds they first "watchfully waited" unprepared, until we got into the World War, then feverishly expended, gave away, squandered in the shameful reign of the war profiteer, three billions of dollars of the people's money on a shipbuilding program subscribed and paid into the Treasury of the United States through self-denial and sacrifice, but all to patriotically back up our fighting forces.

As a result there were started or built 589 wooden ships that cost over \$300,000,000, and about 1,700 steel ships that cost about \$3,300,000,000.

We have, fortunately, gotten rid of those monuments of folly, the wooden ships, at approximately one one-hundredth of their cost, but there still remain about 1,500 steel ships of various kinds in good, bad, and indifferent shape, but all more rapidly deteriorating from lack of use than they would if in use.

Our exports (exclusive of trade with near-by West Indian and Central American countries) are now over three times our imports. Of these exports foreign ships are carrying about 76 per cent and our American ships carry but 24 per cent—19 per cent in Shipping Board vessels, and 5 per cent in privately owned vessels. This is the measure of our success with our own ships, unequally competing against foreign ships, seeking to establish markets for our products. To carry this 19 per cent in our Shipping Board vessels costs approximately \$50,000,000 in direct operating loss, to say nothing of deterioration, depreciation, insurance, and so forth, to say nothing of the fact that we have no forward-looking plan that means a real, progressive program for the upbuilding of a merchant marine for the United States.

The question squarely presented to this Congress is, what are we going to do toward taking these steel vessels we already have as a basis or the beginnings of a real merchant marine, and how are we to meet the handicaps of existing laws unless we pass the bill now under consideration, so that our own enterprising citizens can compete on an even basis with foreigners in carrying our products?

As President Harding wisely pointed out in his strong, logical, economically sound argument to the Congress, three courses lie open to us: (1) Destruction; (2) obstruction; (3) construction. The first plan, destruction, is unthinkable to me, for I do not believe in my heart that the American people would tolerate such a policy; on the other hand, I do believe our people want a merchant marine.

The second policy, obstruction, is the one that is evidently the Democratic policy. I freely admit that I was inclined at first to vote against this bill, for I am prejudiced against the idea of a subsidy, and I have been patiently waiting for the foster parents of this willful, profligate pair—wooden and steel ships—to evolve some constructive plan for the utilization of what is still left of this great fleet. So far the only constructive plan suggested from the most exhaustive study and research of the painstaking, hard-working Judge DAVIS is to wobble along with the present policy that is admittedly costing over \$50,000,000 a year, and that is all that is offered against President Harding's clearly stated, forward-looking, constructive plan for now using these ships at an estimated annual cost of \$30,000,000, a saving of at least \$20,000,000, with the possibility of getting the Government out of the business, instead of the Democratic way of either keeping the Government in the business or watchfully and prayerfully waiting for God Almighty and more propitious times, as if our previous experience in the Government operation of the railroads had not taught us a lesson.

Brother NELSON of Wisconsin (JOHN M.) says the farmers are unanimously against the bill, in the face of the indorsement of the Farm Bureau, while Brother ATKINSON, of the Grange, is against the upbuilding of a merchant marine in accordance with the President's plan and specifications, as embodied in this bill, and only arrived at after the most exhaustive investigation and study. Now, I disagree with both Brothers NELSON and ATKINSON as to the attitude of the farmers; the trouble is the facts have not been squarely presented to them, and for that reason no verdict of real value obtained. I can as proudly claim to represent the farmer as they can, and the only letters I have received from my constituents are for the bill and urge me to follow the leadership of the President. I am proud to represent a constituency upon whose lovely hills and in whose enchanting vales roam more good dairy cows per acre than upon any equal acreage in the world. At times we need to ship our surplus dairy products in manufactured form into the outside markets of the world, and what

is our dairy farmers' condition in a small way reflects a national condition and need.

The whole question with me is simply this: I believe the decisive factor in determining whether this country is prosperous or not is in finding markets abroad for the 8 to 12 per cent excess products we produce, and I am positive that we are more certain of finding markets for those excess products when we have our own ships carrying our own products, sailing to the Central and South American countries and to the Orient, on routes determined by Americans, than we are when we have to depend on foreign ships or the advice of foreign experts. I propose, therefore, as between Judge Davis's policy of painful, costly "watchful waiting," that he was so used to under the former President, or Government operation, and President Harding's policy, which he outlined to the Congress in his masterly message, with its definite, concrete proposals, to follow the President rather than to wait for some favoring breeze from somewhere, to somehow bring us into an era of prosperity or meet a national need. [Applause on the Republican side.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. EDMONDS. Mr. Chairman, I move that all debate on this section and all amendments thereto be now closed.

The CHAIRMAN. The gentleman from Pennsylvania moves that all debate on this section and all amendments thereto be now closed. The question is on agreeing to that motion.

The motion was agreed to.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania striking out the section.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

HOME PORT OF VESSEL OF UNITED STATES.

SEC. 705. (a) The Secretary of Commerce is authorized to designate such ports of entry as he deems advisable as ports of documentation for vessels.

(b) For the purposes of section 30 of the merchant marine act, 1920, and of the navigation laws, the home port of a vessel shall be that port of documentation at or nearest to and in the same customs district as the place at which there is conducted the greater part of the vessel business of the owner of the vessel; except that the Secretary of Commerce shall by regulation prescribe the home port in cases where he finds that the above rule is not applicable, including among other cases the case of vessels owned by the United States or any governmental agency thereof, the case of vessels not engaged in trade, and the case where there is no port of documentation in the same customs district as the place at which the greater part of the vessel business of the owner is conducted. The decision of the Secretary of Commerce as to the home port of a vessel shall be final. Nothing in this section shall be held to repeal section 4178 of the Revised Statutes, as supplemented.

Mr. JONES of Texas. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Texas moves to strike out the last word.

Mr. JONES of Texas. Mr. Chairman, on yesterday the distinguished chairman who is in charge of this bill made the statement that there was nothing in the existing law which forbade railroads to own stock in steamships or any steamship companies engaged in foreign trade. Simply in the interest of accuracy I want to read a part of section 9 of paragraph 5 of the interstate commerce act, which is as follows:

From and after the 1st day of July, 1914, it shall be unlawful for any railroad company or any common carrier subject to the act to regulate commerce to own, lease, operate, control, or have any interest whatsoever, by stock ownership or otherwise, either directly, indirectly, through any holding company, or by stockholders or directors in common, or in any other manner, in any common carrier by water operated through the Panama Canal or elsewhere with which said railroad or other carrier aforesaid does or may compete for traffic or any vessel carrying freight or passengers upon said water route or elsewhere with which said railroad or other carrier aforesaid does or may compete for traffic; and in case of the violation of this provision each day in which such violation continues shall be deemed a separate offense.

Under section 604 of the pending bill that provision is repealed in so far as railroads are concerned, if they desire to own an interest in ships engaged in foreign trade or even in trade where they touch the Philippine Islands ports. Here is the point that I wanted to call attention to: The transcontinental railroads will be able to own ships plying through the Panama Canal from one coast of this country to the other coast by touching some foreign port. By doing that they can put out of commission the steamship companies that are simply plying between ports of the Pacific coast, say, San Francisco, and ports of the Atlantic or Gulf coast, because the railroad companies can afford to buy an interest in a steamship line and ply through the Panama Canal from coast to coast and then, touching some foreign port, get a subsidy on the foreign portion

of the cargo but, what is far more important, get an interest in the canal shipping lines.

In that way the railroads of the United States can control the traffic through the Panama Canal, and that is the thing that this section of the interstate commerce law was enacted, I understand, to forbid. But here in the section that we passed yesterday, section 607, paragraph 9 of section 5 of the interstate commerce act is amended by putting on a proviso that this part of the interstate commerce act shall not apply to railways owning an interest in ships operating under this bill.

Now, I submit to the Members of this Congress that when the gentleman from Pennsylvania [Mr. EDMONDS] made the statement that there is nothing in the law—in his effort to keep us from striking out that section 604—nothing in the law which forbids a railroad under the present law from owning stock in a steamship company, he was in error.

I take it that no one wants to authorize the transcontinental railroads of the United States to get control of shipping that passes through the Panama Canal. That is what the railroads wanted to do all along, and it seems to me that it is a great mistake to pass a measure which would permit that. [Applause.]

Why was the Panama Canal constructed? Primarily, of course, in the hope that we would get cheaper freight rates between the coasts. In order to prevent the railways from getting control of the traffic through the canal and thus defeating the very purpose of its construction, section 5 was put in when the interstate commerce law was enacted forbidding railways from owning any interest in ships plying through the canal or elsewhere. Now it is proposed to repeal section 5, or at least to modify it in such a way as to destroy its effectiveness.

Of course, if the railways can get control of some such shipping companies, they will not care whether they make any money out of them; they can put their competitors out of business, destroy the traffic through the canal, and then force the freight back to the railroads, with the consequent increase in rates. Where does the public come in on such a proposition?

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. EDMONDS. Mr. Chairman, I would like to speak on the amendment to the section.

The CHAIRMAN. The gentleman from Pennsylvania is recognized on the pro forma amendment.

Mr. EDMONDS. Mr. Chairman, I do not suppose this will need very much explanation to the Members of the House. A few years ago in the merchant marine act of 1920 we passed a mortgage bill. When the Department of Commerce came to investigate the situation in regard to these mortgages it was found that under any law that we had or any law or definition of a home port that we had they would have to be registered at the home of the man who owned the ship. Therefore, having no specific place where any other person could find out where these documents were registered, the Department of Commerce sent to us and asked us if we could not define a home port in this bill, and we have done it by stating it to be the nearest customs office to the place where the man conducts the greater part of his vessel business.

You gentlemen will realize, particularly those of you who are attorneys, the value of this section. It will enable any of you who wish to look up the documents of a ship and find out what is recorded against the ship to ascertain the place to go. I do not believe you want any further discussion on this subject, because you must all understand it.

Mr. LOWREY. Mr. Chairman, my genial friend from Illinois, Governor YATES, has, I believe, escaped from the House. [Laughter.] I certainly do not want to shoot him in the back. Before going, however, he told us a good monkey story in a very happy way. By his discussion I am reminded of a discussion which took place between a gentleman from New York and a gentleman from Mississippi in regard to a recent Democratic victory in New York. The New Yorker was saying, "The State of New York is easily Republican, and when it does happen to go Democratic it is simply because the Republicans do not hang together." "Yes," replied my friend, "that is a weakness with the Republicans down South. Most of them, if they get anything like what is coming to them, do hang sooner or later, but they do not hang together." [Laughter.]

From my own observation I can testify that my southern friend is right. They generally hang at different county seats and on different Fridays.

But, if I yet have the time, I want to tell another monkey story to match that of the gentleman from Illinois. In a southern town two negroes were watching a monkey dressed

in a brilliant red coat and dancing to the music of a hand organ. One negro said, "He's des ole time folks; dat's all he is. He ain't nuffin' but des ole time folks."

"Ef he ole time folks," replied the other negro, "den why don' he talk?"

"Case he got too much sense to talk," replied the first. "He kno' ef he talk de white folks will fin' out he des a common nigger and take dat fine coat off him and put him to work in de cotton patch." [Laughter.]

My friend from Illinois undertook to apply his story to illustrate the situation in the recent elections. I rather think my story illustrates it better. Some of our friends on the other side have talked entirely too much, and consequently some of them after the ides of March will find themselves stripped of their official robes and perhaps working in harder fields.

Again, I am afraid that during the discussion of this bill some who have rejoiced in reelection have been doing some talking that will cause them to "hang together" or "separately" at the November elections two years from now. I am glad to see, however, that quite a number of those who sit on the left side of the center aisle with the goats have been wise enough and brave enough to see straight and talk straight on this ship subsidy question. And for this reason some of the most objectionable features of the original bill have been corrected by amendment, and when the bill passes this House it will be by a majority many times smaller than the Republican majority in the House.

Finally, I want to say that no man on the majority side is more anxious than I to see a creditable and efficient American merchant marine, but I very profoundly believe that this bill, if passed, would cost the taxpayers many millions of dollars, encourage and strengthen dangerous monopolies, and finally mean little or nothing toward the establishment of American trade routes and the maintenance of the American flag on the high seas.

Some gentlemen have insisted that the policy of those on this side of the aisle is entirely destructive; that we oppose this bill without offering anything in its place. In refutation of this charge, I need only to call attention to speeches such as those of the gentleman from Tennessee [Mr. DAVIS], the gentleman from Texas [Mr. HARDY], and the gentleman from Alabama [Mr. BANKHEAD]. Of course, we on the minority side have had no chance whatever during this session to frame and present a merchant marine bill. Our leaders, however, have pointed the way, and when this bill fails of passage, as I believe it will when it reaches the Senate, then I hope the majority will be willing to walk in the better way that has been pointed out to them, or that the Sixty-eighth Congress will at least see the way more clearly.

Mr. EDMONDS. Mr. Chairman, I move that all debate on this section close in one minute.

Mr. LANHAM. May I have about three minutes?

Mr. EDMONDS. I modify my motion and move that all debate close in four minutes.

The CHAIRMAN. The gentleman from Pennsylvania moves that all debate on this section close in four minutes.

The motion was agreed to.

Mr. SNELL. Mr. Chairman, I have listened carefully to the debate on this measure and have given special attention to the opposition, as I was desirous of getting reasons, if there were any of importance, why this House should not support this bill. We all agree that as a result of the war we have three billions of public money invested in an unprofitable and unsatisfactory enterprise. Both political parties proclaim their support for an American merchant marine, privately owned and privately operated. Every speaker on the bill and every Member of the House is not only disgusted with the past or present management and accomplishments of the Shipping Board but absolutely doubtful about its future. Every man here knows it is costing the taxpayers of this country fifty millions per year loss in operating expenses, to say nothing about depreciation, interest on capital invested, and so forth, which will easily amount to another fifty millions, or, if the whole truth is actually known, it is costing this country on the annual basis of one hundred millions per year to keep less than 30 per cent of its fleet in actual operation, and with nothing but absolute ruin staring us in the face. The longer we go on under present conditions the worse we are off, and in a few years we will have wasted our capital, spent fifty millions of good new money each year, forced privately owned American ships from the sea, and have completely wiped out a possibility of an American merchant marine for the next half century. Every member of the Shipping Board—four Republicans and three Democrats—absolutely agree on this.

We all agree that is the condition that confronts us. Now, are we going to stand idly by, bickering over party politics, personal prejudices and jealousies, and let this three billions be eaten up, or are we going to act like business men and at least try and save what we can out of the wreck? The question before you to-day is not how to develop and place a merchant marine on the ocean; it is how to utilize to the best advantage the one that is now on the ocean and ready to work. If we did not have these ships, I would not consider this bill for a minute; but the proposition now is what is the best way to get out of a bad mess. Let me say in passing, the party here that is solidly opposing this rescue measure had more to do in getting us into this trouble than we did, and they are solidly refusing to lift one pound to help get us out. This Shipping Board is not a Republican child. It was created under your administration. You spent the money. We are only trying to save as much as we can. If you do not like this measure, why do you not assume your share of the responsibility and try and make it better in committee, and all of us act on behalf of the people and try and save the taxpayers' money?

This bill does not entirely please any of us, but it is the result of the best thought and best knowledge we have and the only constructive measure along this line yet presented. The only constructive suggestion that has been offered by the opposition is to abolish the whole Shipping Board and put one man in charge, and if we can not do anything better I do not know but what I would do that. The whole debate on the opposition has developed into a tariff debate, and it is largely the main principle involved in this measure. This bill aims to protect an infant industry. It aims to protect American shipyards, employing high-paid American labor, as against cheaply paid Europeans. It aims to protect well-paid, well-fed, well-housed American seamen as opposed to the coolie labor of our competitors. I am in favor of the American protective policy as applied to our ships at sea just the same as I am in favor of protecting American agriculture and industry on land. It is exactly the same proposition, and I can not understand how any man who claims to be a protectionist and believes in it can be unwilling to give this industry the same protection he asks for his home products.

I represent a purely rural district. My home county is reputed to have more dairy cows than any county in the United States. The farmers of my district want a market for their butter and cheese, and any legislation that helps to build up an American industry that employs well-paid labor in this country helps to make a bigger and better market for the products raised on the farms of my State, and I can not see how any class of people are going to be more directly benefited by this legislation than the American farmer, for when we encourage shipbuilding in this country we are increasing the high-grade consuming class to buy his product at home, thus increasing demand, and with increased demand comes increased prices. With increased prices on agricultural products comes increased prosperity for rural communities.

When we encourage sailing ships in ocean trade, we increase competition there, and that tends toward lower freight rates on his product shipped abroad. I maintain the western farmer is just as much interested in freight rates on his wheat from New York to Liverpool as from St. Louis to New York. If he is as vitally interested as some of us think he is in water transportation from Duluth to Montreal, let me tell you he is interested in water transportation from Montreal to Liverpool. And that is what we are taking care of for him in this bill. The whole trouble is that this proposition has not been put up to him in the proper way. He has not been told the whole truth. If the press and public men had spent one-half as much time telling the honest truth about the merchant marine, its possibilities and benefits, as they have in maligning it and demagoguing about it the situation and feeling in certain parts of this country would be entirely different.

Do you suppose if the honest hard-working farmers of this country knew that to-day they were being taxed this year \$50,000,000 to subsidize a Government-owned merchant marine they would object to legislation that has for its purpose a much more effective privately operated merchant marine at an actual saving to them in taxation of at least \$20,000,000 per year? You need not tell me he would not understand it or object to the legislation. You put all the facts before the people and I am not afraid of their judgment.

Mr. Chairman, (1) I am for this bill because it favors building American ships in American shipyards, employing American labor who eat American farm products, some of which will be produced in my State.

(2) I am in favor of this bill because of the absolute assurance of reasonable freight rates it gives the American pro-

ducer in peace times and the necessary added auxiliary defense it gives our Navy in time of war. As a defense proposition alone it is worth its cost.

(3) I am for this bill because it is the only constructive measure along this line presented by anyone.

(4) I am for it because I believe that American-owned lines of communication between foreign countries and our home markets are just as necessary for our future growth and development as efficient lines of transportation at home.

(5) I am for it because every true American believes in an American merchant marine, and you will never have one unless you utilize the ships you have now.

(6) I am for it because this favors private ownership and operation as opposed to the present inefficient and wasteful Government ownership and operation.

(7) Lastly, I am for it because it will be an absolute saving of from twenty-five to fifty millions a year to the present overburdened taxpayers of our country. I am for this legislation because it is in the interest of America as against England and Japan, and every interest these countries have in America is working against any legislation that tends to perpetuate American shipping on the high seas.

Mr. LANHAM. Mr. Chairman and gentlemen of the committee, I have been seeking to analyze the statement of my good friend from Illinois [Mr. YATES] and have come to the conclusion that it is tantamount to this, that under the anesthetic of his own personal majority he did not feel the pain of the recent operation which the Republican Party underwent. [Laughter.] The situation reminds me of the story of the young man from the East who went out West. His parents did not hear from him for a long time. One day they received a telegram to this effect:

Your son John was killed here to-day in a railway wreck. His head was mashed to a pulp, his chest crushed, both arms broken and both legs broken.

Then after about an hour there came to the grieving parents another telegram which said:

Mistaken as to details. Left arm not broken.

[Laughter.]

I think that summarizes the results of the recent election, and my good friend from Illinois [Mr. YATES] is taking comfort from the fact that the left arm was not broken. [Laughter.]

The CHAIRMAN. The gentleman's time has expired. All time has expired. Without objection, the pro forma amendment will be withdrawn and the Clerk will read.

The Clerk read as follows:

SEC. 706. Subsection B of section 30 of the merchant marine act, 1920, is amended to read as follows:

"Subsection B. When used in this section—

"(1) The term 'document' means certificate of registry or enrollment and license, whether permanent or temporary, but does not include a provisional certificate of registry;

"(2) The term 'port of documentation' when applied to any vessel means the home port of that vessel as shown in its documents;

"(3) The term 'vessel of the United States' means a vessel having a document issued under the laws of the United States, and for the purposes of this section such vessel shall be held to continue to be a vessel of the United States until the document is surrendered with the approval of the board; and

"(4) The term 'mortgagee,' in case of a mortgage involving a trust deed and a bond issue thereunder, means the trustee designated under the deed."

Mr. LANGLEY. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Kentucky [Mr. LANGLEY] is recognized for five minutes.

Mr. LANGLEY. Mr. Chairman, I have not sought to take any of the time of the committee in the discussion of this bill, but have contented myself with voting on motions and amendments that have come up for consideration. I am going to say only a few words now because the time for debate is nearly exhausted, and every Member has made up his mind how he is going to vote, and the only purpose I could accomplish would be to have the RECORD show my reasons for the vote which I intend to cast when the time arrives for the voting on the final passage of the bill. I believe in economy of time, and therefore prefer to set forth those reasons in the RECORD rather than undertake to do so verbally at this juncture, and I shall do the former if the request for the privilege of extension in the RECORD, which I shall presently make, is granted, except as to one or two observations I desire to make now. In the first place, I am going to vote for this bill because I believe, aside from the importance of my country having commercial prestige upon the high seas, that it proposes the best, the most business-like, and economical method of handling the legacy which we inherited from the late criminally extravagant Democratic administration. [Applause on the Republican side.] In the

second place, I propose to stand by our great leader and patriotic President upon this question, and I pause here to assert that I have listened attentively to this entire debate and I have not heard a single logical answer made by either Democrat or Republican to any one of the arguments contained in his superb message in support of this bill. [Applause on the Republican side.]

It is not my purpose to assume the rôle of lecturer to any colleague on my own side of the House, but I wish to state that I think it is high time that we had some solidarity of action and some teamwork in our own party [applause] if we are going to maintain the prestige of the Republican Party in the Nation. We can not do that unless we stand by our President and our own party leaders, once in awhile at least. [Laughter and applause.] If we can not legislate with the majority we have, and are going to permit the Democrats to bullyrag us and run this Government with the Republicans in power, we might as well disband and go home. [Laughter and applause.] We need more of the spirit of cooperation, my fellow Republicans, more unity of action, if we expect to stem the tide two years hence. [Applause on the Republican side.] Our Democratic friends seem to take great pleasure in referring to what they think and what they claim was a spanking which the people of the country gave the Republican Party at the late election, and in contending that this was chiefly due to the opposition of the people to this bill. To me these are amusing contentions. In the first place, the President openly and repeatedly advocated the enactment of this legislation two years ago when he was a candidate for the presidency, and the people knew this when they gave him 7,000,000 popular majority. My version of it is that the people were so anxious to rebuke the Democratic Party two years ago when they gave this 7,000,000 popular majority for the Republican ticket that they lost sight largely of the congressional races and of necessity gave us a very large and abnormal Republican majority in both Houses of Congress. In view of all of the misrepresentation that was indulged in in the late campaign and of existing conditions in general, following as it did the abnormalities succeeding the war, we ought to be satisfied and proud of the fact that we have a majority of 10 in the Senate and 20 in the House. [Applause.] It shows one thing at least, and that is that this country is normally Republican and that it is back of the man now at the helm of the ship of state who has been confronted with the greatest problems that ever confronted a President of this Republic, Abraham Lincoln not excepted. [Applause.] That is all I have to say now. I shall say more in the RECORD a little later on. [Applause.]

Mr. HUDDLESTON. Mr. Chairman, there is room for difference of opinion as to the merits of this measure. There can be no difference of opinion among honest men as to the way in which this bill is being passed.

There is always room for honest differences of opinion upon economic measures, and for those who believe in the principle of a public subsidy for the shipping interests I have no sharp criticism. But there is never room for difference of opinion upon matters of straight dealing and political and public honor, so that I am compelled to feel contempt for the shiftiness, evasiveness, and chicanery which inspire the effort to pass this bill under whip and spur at this particular time and by special session of Congress called for that purpose.

The administration has known for 18 months that it intended to put this legislation through Congress. The Republican leaders have been in full harmony with the administration's purpose and have acquiesced in the way the matter has been handled. From the time the present administration was inaugurated on March 4, 1921, until the present, Congress has been in session practically continuously. Why has not this bill, which has for its purpose the grant of public funds from the Treasury in aid of shipowners, been brought up before now? The answer is obvious. We were to have an election on November 7. Those in control did not dare to bring the bill up. It has been on the calendar for months, but they did not dare to ask for its passage because they feared that Congressmen of their own party who were seeking reelection could not be induced to violate the wishes of their constituents and support it—they feared that such of their members as did support it would pay dearly for their action in the elections.

And why is a special session called? Why not wait until the next Congress assembles, with its new mandate from the people? Again the answer is clear that new Members of the next Congress, fresh from the people and willing to perform the will of their constituents, could not be induced to vote for the bill. The measure is being presented now and under the existing circumstances because it is realized that there is no hope to get it passed by the next Congress. Its sole hope of

passage lies in the votes of Republican Congressmen who have been defeated for reelection and to whom the people have already done all that it is possible to do to show their displeasure.

This Chamber bears the aspect of a legislative hall but in reality at this time it is a morgue, a charnel house. It seems to be a place for the living; in reality it is the abode of the dead. Upon the Republican side of the House there are 110 Members who have not been reelected to the next Congress. It is by the support of these "dead men" that this bill will be passed.

You may go up and down the aisles on the Republican side and look into the face of many a dear departed one and say, "Does not he look natural?" Color is in his cheeks and he has the semblance of life but in reality he is dead. By reason of a provision of our Constitution, applicable to the old stage-coach days when it took months for Members to reach Washington after being elected, a new Congress begins on March 4 after the November election. For the intervening months Members who have been politically executed by their constituents continue in their seats and may legislate in utter disregard of the public welfare and the people's wishes. Due to this out-of-date constitutional provision, these 110 Republicans continue in office and are able to reach dead hands out of political graves to push this measure to passage.

Was there ever a greater farce? A bill brought forward with the deliberate purpose of it being passed by those who really represent no one but themselves, who are merely the gray ghosts of dead politicians. Oh, you ghostly Congressmen, I beg you to sustain in your political graves the same principles of public honor and good faith that you cherished while alive! [Applause.]

Mr. EDMONDS. Mr. Chairman, I move that all debate on this section and amendments thereto close in 15 minutes.

The CHAIRMAN. The gentleman from Pennsylvania moves that all debate on this section and amendments thereto close in 15 minutes.

The motion was agreed to.

Mr. SANDERS of Indiana. Mr. Chairman, the gentleman from Alabama has made a speech against the merchant marine bill which is under consideration. In that 5 minutes the gentleman from Alabama has advanced all the arguments against the measure which are at his command. The sum and substance of the argument of the distinguished gentleman is that we ought not to follow out the provisions of the Constitution which decide the terms of the members of the American Congress, but that we ought to follow the leadership of the new advocates who pay no attention to the Constitution and want to set up their own judgment and say that when the elections are over every member who is not to serve in the next Congress is not permitted to vote on any measure before the House. The gentleman seems to think the country in the recent elections repudiated the Republican Party in the House. Is there a Democratic victory in the House? No. The country sent back a Republican House. The country retained a Republican Senate. This country believes in an American merchant marine and this bill will be written into law.

My notion is that the people of this country want this great American Republic to have an American merchant marine, and that the people of this country want us to dispose of this great perplexing problem of \$5,000,000,000 worth of ships left to us by a former administration for disposition which are costing us a loss of 50 millions per year. We can not shirk the duty which confronts us, I care not what the gentleman from Alabama may say. We must meet this problem not as politicians seeking votes but as American statesmen undertaking to deal with a great economic and national problem. [Applause.]

I do not believe personally in national disarmament, and a merchant marine is necessary unless the Republic shall entirely disarm. I believe in international agreements for the limitation of armament and we have a certain agreement pending. But my friends, unless we have an American merchant marine such as is proposed by this measure—and no substitute is offered—unless we have an American merchant marine, if the terms of the Armament Conference are carried out, we shall leave America defenseless among the nations of the world. [Applause.]

Mr. BANKHEAD. Mr. Chairman, I move to strike out the last word. Mr. Chairman and gentlemen, it has frequently been said during this debate that there has been offered for consideration of the committee no substitute proposition to take the place of the bill with which you are presented. Anyone familiar with the legislative situation knows that that would be absolutely futile. If we attempted to present a concrete proposition it would meet the same fate as the amendments

which we have proposed. Before the debate closes I desire to suggest some alternate propositions to meet the emergency situation in which we are placed.

First. Abolish the monopoly of the American shipbuilders by permitting the American shipowners to buy ships wherever they can be bought cheapest and to sail her where she can make the most money, and put all ship material on the free list.

Second. Enforce in letter and spirit all the provisions of the seaman's act, thereby insuring safety at sea and the most skillful efficiency in operation and equalization of wages on American and foreign ships on all lines to and from American ports.

Mr. LANGLEY. Mr. Chairman, will the gentleman yield?

Mr. BANKHEAD. No; I have not the time.

Third. Eliminate for all time all suggestions of cash subsidy.

Fourth. Enforce with full vigor the provisions of sections 5, 6, and 7 of the Jones Act. These sections provide, respectively, for the sale and temporary operation of Shipping Board vessels.

Fifth. Sell to Americans or foreigners, give away, or scrap the undesirable portion of our fleet. Mr. Lasker says that only about half of it is desirable for operation in competition. This will reduce the overhead of upkeep and administration very greatly.

Sixth. Repeal section 34 of the Jones Act.

Seventh. Abolish the managing agency form of contract and have Government ships operated by competent shipping men for a stipulated salary on a business basis.

The following Government compensation to private operators is not unconscionable—does not involve any vicious direct subsidy out of the Treasury, and, if thought desirable, involves the exercise of a reasonable discretion:

1. To provide that Army, Navy, and Marine Corps transportation may be done by privately owned vessels, at the discretion of the President, where such ships are available and will contract to perform the service on reasonable terms.

2. To require all officials of the Government, where the expense is out of the Treasury, to travel on privately operated ships where such ships are available and will contract to perform the service on reasonable terms.

3. Require 50 per cent of all immigrants to come in American vessels, after agreements to make existing treaties harmonize with immigration laws of the United States are concluded.

4. Adequate, direct compensation to ship operators for carrying United States mails.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. BANKHEAD. I do not think it would be possible for me to get an extension of time under the agreement.

Mr. MONDELL. How much more time does the gentleman want?

Mr. BANKHEAD. I would like to have five minutes more.

Mr. MONDELL. Could not the gentleman make the statement in three?

Mr. BANKHEAD. I would be very glad to have the opportunity to make the statement if I could.

Mr. LANGLEY. Mr. Chairman, reserving the right to object, if the gentleman will yield to me for a question I will not object.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent that the gentleman may continue for five minutes more.

The CHAIRMAN. Is there objection?

Mr. LANGLEY. Mr. Chairman, I reserve the right to object.

Mr. BANKHEAD. Mr. Chairman, I ask for the regular order. If there is objection I want it made.

Mr. LANGLEY. Will the gentleman yield?

Mr. BANKHEAD. I do not make the agreement under any conditions.

Mr. LANGLEY. Then I object.

Mr. BANKHEAD. Very well. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BEGG. Mr. Chairman and gentlemen of the committee, the first part of the debate upon this question was devoted by the opposition to the question of taxation. That was horribly exploded just the other day, but in order to emphasize it I want to call attention to-day to the fact that nearly all of the time of the opposition to this bill has been consumed by gentlemen from Alabama, gentlemen from Tennessee, and gentlemen from Texas. After the bill is practically through they confine themselves to sounding condolences to the Republican Party upon what is going to happen to it. I want to say to you men seriously that if you will quit worrying over what is going to happen to the Republican Party and give a little bit of your consideration to what is going to happen to the United

States of America after we have written the subsidy bill into law and provided an American merchant marine, the people from your States will be a great deal more interested than in the demagogic utterances of gentlemen on the floor of the House of Representatives.

I get tired listening to men making speeches after every great measure telling what is going to happen to the American people. We went through a period of that after the tariff bill, and I am going to tell you what happened in Ohio after the tariff bill was passed. The 5,000,000 men that you threw out of work by the Underwood bill were set to work and put on the pay rolls so they could make a decent living for their families. The same thing will happen under this bill.

Just to show the membership of this House the kind of statesmanship that is fighting this bill, I am going to begin with Alabama, because my distinguished friend here, Mr. HUDDLESTON, from that State seemed to be troubled and worried because some men on the Republican side are going to cast their ballot after the election is over. Do you know that if this bill passes and becomes a law your people in Alabama will be taxed the magnificent sum of 5 cents per head per annum, and in 10 years that every single possible cent that you can pay, so far as the money goes, will be 50 cents per head, and at the same time you drew out of the Treasury a direct subsidy for education alone last year of \$1 per head. It seems to me it is about time for a man who pays a 5-cent tax and gets a 10-cent tax given him, to begin to get into line and do a little less demagoging and give a little more serious thought and study to the question of finance. [Applause on the Republican side.]

Let us now take the State of Tennessee. My genial friend, the minority leader, the other day was very much exercised over the fact that it was going to cost the State of Tennessee 9 cents per capita; and what for? To fly the American flag on the high seas over every dollar's worth of commerce that sails from this land. Go home, you men, and tell your constituents the truth. Do not demagogue about \$30,000,000, because it is not going to cost \$30,000,000; but tell them the truth—that the maximum tax that they can pay in 10 years is 90 cents per head, and ask them if they would rather have their American soldiers shipped under the British flag or have the Stars and Stripes flying over them?

I want to ask you men from Texas whether you would rather ship your beef and cotton in American ships, under the American flag, or pay a tribute to Great Britain or Japan? [Applause on the Republican side.]

The CHAIRMAN. The time of the gentleman from Ohio has expired. All time has expired. Without objection, the pro forma amendment is withdrawn, and the Clerk will read.

The Clerk read as follows:

SEC. 707. Section 4141 of the Revised Statutes is amended to read as follows:

"SEC. 4141. Every vessel, except as otherwise provided by law, shall be registered by the collector of customs at the home port of the vessel."

Mr. STEVENSON. Mr. Chairman, I move to strike out the section. I have been very much entertained by the gentleman from Ohio [Mr. BRIGGS], who never demagogues. The gentleman continually refers to the fact that some States pay a great deal more income and other Federal taxes than other States. The fact that it is collected in New York does not mean that it is produced there. The gentleman ought to know, if he is not a mere politician or demagogue, instead of a business man, that it is what a State produces, it is the basic production of this country, that establishes the position of a State industrially and otherwise, and that because of the handling and manipulation of things at certain great centers, great profits are drawn to those centers, and the Government is enabled to collect its tax at those centers, and thus make it appear, for instance, that everything is produced in New York. The basic products which produce the wealth of the country are farms, forests, mines, mineral production, lumber, and so forth. New York, about which the gentleman speaks, produces 3.05 per cent of these basic products. South Carolina produces 2.04 per cent, and Ohio 3.83 per cent. In other words, they all run along in a class. South Carolina produces a million and a half bales of cotton and the whole South produces 10,000,000 bales of cotton; yet in New York alone they sold 101,000,000 bales of cotton on the cotton exchange and robbed the people who actually made the stuff by this manipulation and depreciation and speculation, and thereby had great income taxes. I set out here the statement of this matter, showing the per cent of basic products each State makes and the per cent of public road fund each State received from the \$275,000,000 appropriated up to 1920. This table is by an expert of the Commerce Department, found on page 2949, CONGRESSIONAL RECORD, Sixty-sixth Congress.

The total value of the basic annual products of the United States from farms, forests, and mines, namely, mineral products, lumber, wool, poultry and eggs, dairy products, domestic animals, and agricultural crops, was \$30,251,702,506. The following summary indicates the proportion of that total produced by each State, and the proportion of Federal aid received by each State in the allocation of the \$275,000,000 heretofore appropriated under the present highway plan:

State.	Per cent of production.	Per cent of Federal aid.
Alabama.....	2.26	2.17
Arizona.....	2.17	1.41
Arkansas.....	2.01	1.73
California.....	2.70	3.14
Colorado.....	1.30	1.79
Connecticut.....	.35	.63
Delaware.....	.14	.17
Florida.....	.64	1.18
Georgia.....	2.64	2.78
Idaho.....	.84	1.26
Illinois.....	5.08	4.51
Indiana.....	3.07	2.78
Iowa.....	4.85	2.98
Kansas.....	3.73	2.96
Kentucky.....	2.52	2.01
Louisiana.....	1.97	1.40
Maine.....	.61	.99
Maryland.....	.69	.90
Massachusetts.....	.46	1.52
Michigan.....	3.24	2.98
Minnesota.....	3.39	2.93
Mississippi.....	2.21	1.85
Missouri.....	3.27	3.50
Montana.....	1.38	2.06
Nebraska.....	2.78	2.20
Nevada.....	.43	1.33
New Hampshire.....	.29	.43
New Jersey.....	.49	1.23
New Mexico.....	.70	1.65
New York.....	3.05	5.13
North Carolina.....	2.90	2.35
North Dakota.....	1.33	1.58
Ohio.....	3.83	3.82
Oklahoma.....	3.98	2.38
Oregon.....	1.42	1.63
Pennsylvania.....	5.50	4.73
Rhode Island.....	.07	.24
South Carolina.....	2.04	1.48
South Dakota.....	1.73	1.67
Tennessee.....	1.96	2.33
Texas.....	5.43	6.03
Utah.....	.96	1.17
Vermont.....	.45	.47
Virginia.....	1.86	2.05
Washington.....	1.72	1.49
West Virginia.....	1.99	1.10
Wisconsin.....	2.95	2.62
Wyoming.....	.62	1.26
	100.00	100.00

Mr. ROSSDALE. Will the gentleman yield?

Mr. STEVENSON. The same way with Chicago. The people out West make an enormous amount of wheat, but what becomes of the profits of it? It is all absorbed in Chicago. The same way about the packers. The cattle business of the West is large, but the packers absorb and monopolize and get all the profits. You talk about basic products and talk about demagoguery and talk about the fact that we pay a small amount in South Carolina and they pay a large amount out in Ohio, when we make nearly as much basic products as they do, and say for that reason we ought to vote for what is wrong. I say the people of Ohio, the people of Illinois, and the people of New York need protection against the fellows they send here who brazenly vote large taxes and large expenditures of money and confessedly say they do it because they have the right to do it. The gentleman from Ohio has spoken to this House from time to time in a sneering way in referring to Texas, and says that the Texas people pay very little. Let us see about Texas. It produces of the basic products of this country 5.43, while Ohio produces 3.81. Pennsylvania alone exceeds Texas, producing 5.50 per cent of basic products.

Mr. BLANTON. Nearly twice as much as Ohio produces?

Mr. STEVENSON. Yes. Illinois produces 5.08 and she has got some right to come here and talk; and if the gentleman sneers at Texas and sneers at the small tax they pay, why, if you will keep a lot of the centers from robbing the Texas farmers of what they make and depressing their prices and confiscating their property—if you will stop that, Texas will pay more than Ohio and as much as New York pays next year. [Applause.]

Mr. HOGAN. Mr. Chairman, when we vote upon this measure to-day we are called upon to do more than decide whether we shall enact a subsidy bill into law—we are asked to determine whether the American people shall develop this into the greatest of maritime nations with resultant prosperity and

civilization or give way to the power and convenience of the British Empire.

The issue is simple: Since the time of Alexander Hamilton we have contended in this country that Congress should provide a protective tariff high enough to cover the difference between the cost of production here and abroad, to encourage our manufactures, to stimulate agriculture, and to give employment to our wage earners. So unanswerable has been this contention that the Democratic Party which has opposed it in principle has not failed to provide a modicum of it in practice. And so efficacious has it been that there is no reason why it should not be extended to our merchant marine. By a subsidy we are no more benefiting a few at the expense of the many than when we restrict foreign competition with our commodities and thereby save them for the benefit of America. By a subsidy we cover labor and other differences in cost here and abroad and thereby enable our ship builders and owners to survive upon the ocean. It seems to me it is just as worth while to save our merchant marine for America, in order that we may carry our own goods in our own bottoms, as it is to save our farms and our factories and the standard of living of our workmen, the highest in the world, for America. If we do not do so, the British marine will carry our goods. It is not good for one nation to depend upon another for anything, much less free and independent America. Great Britain is for Great Britain. I do not blame her for that. But I blame anybody here who is for Great Britain before he is for America. I want America to continue to be what she is, the first nation in the world, and therefore I want her to be first on the sea. You can not be first in anything unless you are willing to sacrifice. The sacrifice in money called for in this bill is infinitesimal as compared to the great good to our commerce which will result. And so I heartily support it.

If we look back over the past we find that the peoples of the earth which have risen to dominating position have been those which have been able to maintain themselves on the sea. Had the merchants and mariners of Tyre not gone down to the sea in ships, Phœnicia would not have given to the world the alphabet. The arrogance with which she used her power at last brought her to the doom prophesied by Ezekiel. By sea power Carthage also arose to dominion and for a time disputed with Rome for command of the Mediterranean. She held it with varying success during three Punic wars, until the hand of Scipio wrested it from her, and thereby was enabled to give us Roman law. Had Athens not built ships to meet Persia at Salamis, Alexander and his successors would not have been enabled to spread abroad the civilization of Hellas. When she, too, had finally passed under the power of Rome, the Italian peninsula developed state after state, which grew to prosperity through merchant fleets. Venice, Genoa, Florence, and Naples added their chapters to the maritime history of our globe and, therefore, to the spread of civilization. Portugal rounded the cape. Spain took a mariner from Genoa and discovered the continent which was to become the beacon to free the earth and which was to supply more wealth than the rest of the world combined. Spanish pride was brought low when Drake destroyed her armada. The Hanse towns followed in the wake of the Norse sailors in seeking new lands and markets. Holland enriched herself and gave herself strength to grant an asylum for the molested of other countries by the development of a marine which also fell before that of England. Then London, "great in the midst of many waters," became a second Tyre. She swept from the seas the merchant as well as the war ships of Napoleon and gave him the incentive for selling to us the vast territories comprised within the Louisiana Purchase, extending from New Orleans up the Mississippi to the Rockies.

In the very moment of England's zenith on the seas a new people which had sprung up out of her injustice in the days of the American Revolution challenged her supremacy. By the skill of her builders, the daring of her fishermen and sailors, and the genius of her merchants the United States outstripped the motherland and earned the title of mistress of the ocean. We gained a heritage with the reckless daring exemplified by John Paul Jones. Bath in Maine and Gloucester in Massachusetts rose to fame. In 1789 the United States had 123,000 tons of deep-water shipping, carrying 17 per cent of our imports and 91 per cent of our exports. Five years later we carried 91 per cent of our imports and 86 per cent of our exports. We caused Edmund Burke to declare in the House of Commons:

Neither the perseverance of Holland nor the activity of France nor the dexterous and firm sagacity of English enterprise ever carried this most perilous mode of hardy industry to the extent to which it has been pushed by this recent people—a people who are still, as it were, in the gristle and not yet hardened into the bone of manhood.

The War of 1812, fought by Great Britain to maintain the right of search and seizure, interrupted our marine development. But when the war was over we took hold again, and 12 years after the war was over the London Times asked:

Twelve years of peace and what is the situation of Great Britain? The shipping interest, the cradle of our navy, is half ruined. Our commercial monopoly exists no longer, and thousands of our manufacturers are starving or seeking redemption in distant lands. We have closed the western Indies against America from feelings of commercial rivalry. Its active seamen have already engrossed an important branch of our carrying trade to the eastern Indies. Her starred flag is now conspicuous on every sea and will soon defy our thunder.

From 1830 to 1836 our merchant marine increased 12 per cent a year while that of Great Britain increased 1 per cent. In the forties and fifties we were supreme on the seas. Then came the Civil War—four years of it. After that came the development of our manufactures. Railroad construction, manufacturing development, and the lure of the great West furnished new outlet for American capital and manhood. In 1870 we carried 35 per cent of our trade in our own bottoms, in 1880 but 17 per cent, and in 1914 but 9 per cent.

We have built up the West. We have developed our industries until we are the wealthiest Nation of all time. We have produced the inventive genius to enlighten and transform the world. We furnished the manhood in the Great War to turn the tide of battle and save our allies. We must now return to the great task we laid down in 1860 and again show what American intrepidity can do on the ocean. We must maintain our commerce and our civilization by our trade upon the sea. We must not lag behind in our quest of outlet for our energy, but must go on and enable our ships to carry forward the message of our civilization and our liberty. We must not admit that England can do that which we can not do. Republicanism is better than monarchism. Our civilization is superior to hers. Certainly the prosperity of our people is as vital to us as that of the English people is to England. Let us then give to our marine the few millions necessary to enable us to use the fleets we developed during the Great War and to use them for the benefit of America. [Applause.]

Mr. EDMONDS. Mr. Chairman, I move that all debate on this section do now close.

The motion was agreed to.

The Clerk read as follows:

SEC. 708. Subdivision (a) of subsection O of section 30 of the merchant marine act, 1920, is amended to read as follows:

"Subsection O (a). The documents of a vessel covered by a preferred mortgage may not be surrendered without the approval of the board, except (1) in the case of forfeiture of the vessel or its sale by order of any court of the United States or any foreign country, or (2) in case of the renewal of the documents without change in ownership of the vessel, or (3) in case of change of documents incident to change of trade but without change in ownership of the vessel. The board shall refuse its approval unless the mortgagee consents to the surrender."

Mr. BLACK. Mr. Chairman, the gentleman from Ohio [Mr. BEGG] has repeated to-day his oft-used argument in the House that Members from those States which do not show a large payment of income taxes should be reluctant to express their views upon pending legislation involving public expenditures. The gentleman took occasion to emphasize in his remarks that debate to-day upon the Democratic side of the House has been chiefly conducted by Members from Alabama, Tennessee, and Texas, and he referred to the speeches of these Members as demagoguery. Not having participated in the debate myself until now, I think I can say without immodesty that the debate from this side of the House has been of a very enlightening and informing nature and has been very far from demagoguery. Now, the gentleman from Ohio is, of course, a statesman, also an orator and a scholar. No one will dispute it, not even himself. The press of his State speak highly of him; the pulpit of his State speak highly of him; the bar of his State speak highly of him, but I have heard no one speak as highly of him as he does himself. [Laughter and applause.]

The gentleman refers, not only in this debate but he did so in the debate upon the good roads bill, to the small amount of income tax paid by the people of such great agricultural States as Texas, which produce a large part of the real basic wealth of the Nation, as compared to the amount of tax paid by certain financial and industrial States like New York, Pennsylvania, and Ohio. I want to say to the gentleman that the people of our great agricultural States are waking up to the fact that it is a matter of very serious concern to inquire why such a very large part of the income of the country flows into these great industrial and financial centers instead of being distributed to those who really produce it. [Applause.] And we are finding out—the people are finding out the reason why New York pays such an enormous income tax. They are finding out

why States like Pennsylvania and Massachusetts have such impressive income-tax figures. They know these great incomes have been built up largely because of subsidy legislation such as is proposed in this ship subsidy bill and by the Fordney-McCumber protective tariff. [Applause.] I am glad, Mr. Chairman, I have an opportunity at this hour to register my protest against this bill and my emphatic vote against it when the vote is taken.

One of the most serious economic and social problems with which we are now perplexed is the concentration of such a large part of the wealth of the country in the hands of so small a minority of the people.

I have no war to make upon capital legitimately acquired. I would like to see more men of capital. By that I mean more men of moderate means who are able by thrift and industry to accumulate something ahead and invest it in homes, in farms, in industries. Men will better be able to do this by equalization of opportunity, by removal of favoritism. Their task is made much more difficult by legislation like this we now have before us, which would vote a direct subsidy out of the pockets of the taxpayers into the pockets of the shipowners; it is made more difficult by laws like the Fordney-McCumber tariff law, which give indirect subsidies by means of high tariff rates.

These kinds of laws must stop if the average man is to have his chance. I voted against the Fordney-McCumber tariff law and I will certainly register my vote just as emphatically against this ship subsidy bill.

Mr. EDMONDS. Mr. Chairman and gentlemen of the committee, as I will not probably have another opportunity to say anything on this bill, I wish just to make a few observations.

WHAT IS A SUBSIDY?

It is peculiar of the present age that we are apt to speak in positive objection to propositions which upon investigation prove entirely different from the ideas we have acquired by superficial thought. One of the most recent examples of this is the turmoil created by the proposition to pay compensation to equalize the cost of operation between American and foreign ships, which can be termed "compensation," "subsidy," or "subvention" with equal propriety.

If you study your Standard Dictionary you will find a subsidy means:

Pecuniary aid directly granted by a government to an individual or commercial enterprise deemed productive of public benefit.

Synonyms: Aid, allowance, bonus, bounty, gift, grant, indemnity, pension, premium, reward, support, etc.

Illustration: A nation grants a subsidy to an ally, pays a tribute to a conqueror.

A subvention means "a grant" and compensation means "to recompense," taken in connection with the merchant marine. Any or either of these terms could be used to describe what it is proposed the Government should do to aid in the establishment of a merchant marine.

Subsidies for many purposes can be found by investigation into the history of all nations. The building of a merchant marine was only one of the many ways a subsidy was applied.

This also has been true of our own Government almost from the time of its origination and in many lines of endeavor. For instance, what is a tariff but an indirect tax on all of the people for the purpose of keeping American labor at a standard unknown in other countries? It is a subsidy to labor.

Much has been said about the opposition of the farmer to a subsidy to ships, particularly those farmers in the Middle West. It is a marvel to me that the farmer whose very existence on a farm was made possible by a subsidy can even think of a subsidy as an improper legislative proposition. No one knows better than he does that it was the 133 separate land grants made between 1850 and 1870 to railroad companies, covering a total of nearly 200,000,000 acres of the public domain, that made possible the opening of his markets. These grants were made with the full consent and assistance of the settled portions of the country and were indirectly a subsidy to the farmer, rendering his existence possible. A list of these grants will give an idea to many of the beneficiaries of this subsidy how dependent for their start they were upon them.

Land grants made by Congress for railroads, wagon roads, and canals.

	Total acreage.
Alabama	3,593,986
Arizona	1,615,534
Arkansas	3,784,023
California	23,273,548
Colorado	4,650,339
Florida	2,497,717
Idaho	6,165,633
Kansas	5,974,127
Illinois	2,919,415
Indian Territory	1,615,534
Indiana	1,916,803

	Total acreage.
Iowa	9,956,496
Louisiana	3,446,174
Michigan	5,455,157
Minnesota	17,386,521
Mississippi	1,292,851
Missouri	8,078,958
Montana	6,165,633
Nebraska	5,084,852
Nevada	2,423,955
New Mexico	1,615,534
North Dakota	6,165,633
Ohio	1,019,031
Oregon	12,855,268
Texas	1,165,534
Utah	2,423,955
Washington	6,165,633
Wisconsin	11,870,689
Wyoming	2,226,384

Roads—Federal-aid projects.

Geographic divisions and States.	Total cost.	Federal aid.	Per cent of total.
New England	\$9,489,651.07	\$4,199,541.65	44
Maine	1,629,481.90	765,880.65	47
New Hampshire	1,896,220.91	898,470.92	48
Vermont	417,352.96	202,388.65	48
Massachusetts	3,944,658.06	1,618,810.25	41
Rhode Island	1,284,454.89	550,080.40	43
Connecticut	347,482.35	163,910.78	47
Middle Atlantic	27,181,576.03	10,964,006.27	40
New York	3,661,043.05	1,654,722.81	45
New Jersey	3,073,022.31	1,161,457.31	38
Pennsylvania	20,447,510.67	8,047,826.15	39
East North Central	56,925,879.61	23,188,240.07	41
Ohio	16,621,864.40	5,555,550.57	33
Indiana	3,489,845.38	1,676,894.90	48
Illinois	22,826,302.37	10,432,933.60	46
Michigan	3,528,217.33	1,680,192.96	48
Wisconsin	10,459,660.13	3,842,668.04	37
West North Central	31,242,756.67	12,151,084.63	39
Minnesota	10,015,595.10	3,892,395.23	39
Iowa	8,632,692.90	3,264,878.62	38
Missouri	3,086,395.55	1,370,645.18	45
North Dakota	1,245,117.35	581,000.16	47
South Dakota	1,422,493.84	699,618.84	49
Nebraska	1,114,073.18	490,495.73	44
Kansas	5,736,474.75	1,881,540.87	33
South Atlantic	32,670,071.35	14,621,019.78	45
Delaware	1,615,761.45	393,654.83	24
Maryland	4,804,945.57	2,272,317.90	47
Virginia	2,244,087.68	1,082,056.08	48
West Virginia	2,652,694.80	1,175,746.28	44
North Carolina	5,318,607.40	2,403,197.92	45
South Carolina	3,892,032.75	1,820,326.80	47
Georgia	12,072,475.38	5,444,019.34	45
Florida	69,466.31	29,700.63	43
East South Central	8,471,955.65	3,975,182.38	47
Kentucky	1,882,002.53	844,787.46	45
Tennessee	1,241,632.29	580,897.44	47
Alabama	3,074,933.09	1,450,008.29	47
Mississippi	2,273,357.74	1,093,489.19	48
West South Central	20,472,996.43	8,248,017.00	40
Arkansas	4,921,772.29	1,625,965.00	33
Louisiana	2,577,021.44	1,121,901.86	44
Oklahoma	2,398,173.00	1,117,967.15	47
Texas	10,576,029.70	4,382,182.99	41
Mountain	24,506,593.42	11,687,463.15	48
Montana	5,181,458.02	2,533,322.95	49
Idaho	6,398,969.93	3,028,399.88	47
Wyoming	2,435,718.70	1,131,882.71	46
Colorado	3,315,210.11	1,556,392.59	47
New Mexico	1,737,692.74	866,992.27	50
Arizona	3,025,004.35	1,466,266.49	48
Utah	548,904.15	266,499.90	49
Nevada	1,863,635.42	837,706.36	45
Pacific	19,874,304.14	9,127,153.63	46
Washington	7,740,830.16	3,670,259.11	47
Oregon	9,086,285.21	4,032,957.06	45
California	3,097,188.77	1,423,937.46	46

Modern conditions have required that transportation to railroads and into near-by urban settlements should be made by vehicles and economy demanded that the old mud road should make way for the hard road so that greater loads and quicker passage of products would be guaranteed. Here, within the past few years, we again find Congress legislating in conjunction with the States for the expenditure of hundreds of millions of dollars for the joint construction of roads all over the country. Did the farmer then find the heavy taxpaying districts of the country refusing to countenance this subsidy which was of peculiar benefit to him?

And again in the past 10 years, from 1911 to 1921, the War Department has expended \$357,000,000 for river and harbor improvements, \$119,000,000 of which went for harbors and \$238,000,000 for rivers, just to enable the people of the Middle West to market their products cheaply—another subsidy from the Government for sectional benefit, and again no objection from the large centers of the country as to the charges involved.

Does the farmer not recognize the valuable assistance given him in the eradication of plant and animal disease by both

National and State Governments? In 1921 the National Government spent \$24,500,000 in this work. It is fair and proper to argue that the whole country is benefited by this subsidy, but the financial benefit from this expenditure of the taxpayers' money remains with the farmer and not with the taxpayer.

In the McKinley tariff of 1890, which provided for the free admission of sugar, the cane-sugar grower of Louisiana and the beet-sugar producer must remember the bounty on sugar of 2 cents per pound provided for in that bill, and did we ever hear of those interested protesting against the payment of that subsidy?

And yet with all of these subsidies continued for years, and with the good results achieved by them, and let us hope for many years to come that the good work will go on, we find the so-called agitator describing the farmer as up in arms against a ship subsidy, the only reason for opposition being that a ship subsidy will benefit but some few capitalists, when if his better thought is given to the subject he would find that he himself is the principal beneficiary. To no one industry in the country is the prompt removal of surplus so vital as it is to the farmer. Within the past year he can remember the advance in the price of corn occasioned by the removal of the corn for Russia, and surely no farmer is so ignorant as to expect the best thought and service for the removal of his surplus products to come from his competitor whose own personal interests must always be paramount.

If you do not pay a subsidy to your ships you must perforce pay tribute to your commercial enemies.

The late David Lubin said if shipping interests had a private understanding of what rates are to be "the few holders of such advance information will be in a position to operate in the bourses or exchanges as successfully as a gambler playing with loaded dice," and further, "Such information will enable them to manipulate directly or indirectly the principal market centers in the world." Is it the desire of our people to place such power in the hands of foreign shippers instead of American shippers? Remember the price abroad sets the price at home.

The opposition to subsidies for shipping in this country in the past has not been so much to the subsidy as it has been to the manner in which the subsidy was obtained and the payment of it to certain favored individuals under suspicious circumstances. The present proposed subsidy has no favorites; it is paid to all who qualify properly; and when a reasonable return is made by the recipient, he is required to return to the Government 50 per cent of all over that return until the full subsidy is replaced in the fund. No one can ask for a fairer provision than that.

If we turn our memories back to the years following the outbreak of the war in Europe and notice the unfortunate trend of prices when the foreign shipping that we depended upon to remove our surplus disappeared, we can readily realize the enormous value to the people, particularly the farmer, in having the shipping under our flag both for commercial purposes and, if the necessity arises, for defense. All the country was united in appropriating for one or two battleships annually, costing \$40,000,000 or more apiece. For the cost of one of those ships you are going to have afloat under the American flag from 700 to 800 merchant ships, useful not only for commerce but for purposes of defense. What more reasonable security could a nation like ours indulge in?

Carl Vrooman, Assistant Secretary of Agriculture under President Wilson, after experiencing the difficulties in the early days of the war, said in his address entitled "The Farmer and the Shipping Bill":

In the past the average farmer has not considered a merchant marine necessary to his happiness or his financial welfare. Our farmers have never been slow to make use of the most up-to-date agricultural implements, of the automobile, or of the tractor. Nor have they been at all backward about fighting for what they considered to be their rights in the matter of railway freight rates. But up to date most of our farmers, particularly in the Middle West, have paid little or no attention to their commercial rights and requirements in the way of ocean transportation. This is not because the question is not to them a vital one, but merely because the facts about it have not been brought to their attention.

If for any unforeseen reason Congress should fail to take steps at this session to provide the country with an independent American merchant marine, it would pay the farmers of America, and "pay them big," to chip in and build a merchant marine for themselves. Our farmers could readily afford to spend not merely the \$50,000,000 called for by the pending shipping bill, but \$100,000,000, or even \$200,000,000, in such an enterprise. If it were necessary, which it would not be, they could run such ships at a yearly loss of from 5 to 10 per cent on the last-named sum and still profit by the undertaking.

In other words, it is a fact capable of demonstration that the most crying need of agriculture in this country to-day is for an independent American merchant marine.

EXORBITANT OCEAN RATES.

At the beginning of the war it cost about 5 cents a bushel to ship wheat from New York to Liverpool, but during the past few months it has cost over 40 cents. The rate is now 48 cents. At the beginning

of the war it cost about one-fourth cent per pound to ship cotton across the Atlantic. To-day it costs in the neighborhood of 3 cents a pound. Other products of our farms and factories are paying similar extortionate freight rates.

As the world price of wheat is determined by the law of supply and demand, and is established at Liverpool rather than at your local market or mine, it is clear that if the cost of ocean transportation were to-day 8 cents instead of 48 cents, the wheat growers of this country would receive a substantial part of this difference in a higher price for their wheat. It is a highly significant fact that on February 15, 1916, the cash price of No. 2 hard winter wheat was 49 cents higher in Liverpool than in New York, while on the same day the ocean freight rate for wheat from New York to Liverpool was 47.9 cents. With facts like this staring us in the face it is not difficult to see the close connection existing between ocean freight rates and the price the American farmer gets for his wheat. It is true that we are getting good prices for wheat now, but, as Liverpool is paying enormously higher prices, there seems to be no good reason for allowing the international shipping combine to take advantage of the crop shortage in Europe and the ship shortage on the high seas to boost freight rates 100 to 1,600 per cent.

This year we have the largest wheat crop and one of the largest corn crops in our history. If we had adequate shipping facilities for carrying our goods at reasonable rates to the markets of the world, prices of farm products would be so enormously increased as to bring a net gain to our farmers of over \$300,000,000 on our wheat alone or our cotton alone. Moreover, even at present exorbitant rates, it is impossible to get ships in which to transport to market a large percentage of our products of farm and factory. Not only are all the docks and storehouses of our leading Atlantic ports glutted with goods but every important railway between the West and our seaboard has its terminals so crowded with loaded cars that a practical railway embargo recently has been declared on further grain shipments from the West.

Secretary McAdoo, in an address made January 9, 1915, in Chicago, said:

If ship subsidies can not be obtained, if discriminating duties are unavailable, if Government guaranties of the bonds of private corporations can not be granted, if the standard of wages of the American sailor can not be lowered, if private capital can not, for all or any of these reasons, be induced to build up an American merchant marine, what is the remedy?

You will note his recognition first of all of a subsidy as the most favorable and permanent way of upbuilding the American merchant marine.

The only option we have that it is possible to consider is Government ownership and operation. Surely no student of our Government would be willing to have the powers expressed by David Lubin placed in the hands of a government official or board. Again the experience of the past few years has shown conclusively that our Government as it is constituted is not flexible enough to enter into a business enterprise in which foreign competition is the principal factor. Decisions must be made on a moment's notice, and can be possible only by a management which is capable and has the authority to do so. Such powers can not be conferred upon a Government board with the expectation that they would act as would a private corporation or individual. Many times during the past few years Shipping Board boats have moved in ballast at an expense to the Government because cargo that was offered at rates lower than the fixed rate could not be taken for fear that the Government or its representatives would be charged with favoritism.

Overseas trade with the competition incident thereto does not lend itself easily to rules and regulations. Nothing more could be desired by our competitors than the defeat of this bill. By the use of every argument, both openly and by underhand methods, they have impeded our efforts to build up a merchant marine. They know control of shipping means control of the world's markets, and it must be evident to us that this opposition should arm us to guard against any propaganda that would confuse the issue, which is plainly before us, and that is American ships, under the American flag, delivering American merchandise for Americans, or foreign control of our markets through control of shipping under foreign flags. [Applause.]

Mr. Chairman, I ask permission to revise and extend my remarks.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. EDMONDS. Mr. Chairman, I move that debate on this section do now close.

Mr. HARDY of Texas. I would like to have five minutes on this section—well, all right.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn and the Clerk will read.

The Clerk read as follows:

SURRENDER OF DOCUMENTS.

Sec. 709. Section 42 of the shipping act, 1916, is amended to read as follows:

"Sec. 42. That any vessel registered, enrolled, or licensed under the laws of the United States shall be deemed to continue to be documented under the laws of the United States within the meaning of section 9 and of subdivision (b) of section 37, until such registry, enrollment, or license is surrendered with the approval of the board, the provisions of any other act of Congress to the contrary notwithstanding."

Mr. TAYLOR of Tennessee. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. TAYLOR of Tennessee: Page 62, after line 19, add a new section to be known as section 7091, as follows: "Sec. 7091. All vessels which receive the benefits of this act shall be equipped with an efficient and quickly applicable vessel-saving device for quickly and effectively closing accidental openings in the hull of the vessel below the water line so as to stop the inrush of water and prevent the vessel from sinking."

Mr. BLANTON. Mr. Chairman, I make a point of order against the amendment.

Mr. EDMONDS. I make a point of order on the amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas and the gentleman from Pennsylvania make a point of order against the amendment.

Mr. BLANTON. It is not germane.

The CHAIRMAN. What is the gentleman's point of order?

Mr. BLANTON. That it is not germane to the purpose of the bill.

The CHAIRMAN. Has the gentleman from Pennsylvania any additional point of order?

Mr. EDMONDS. This is not germane to the section. Safety devices and such things are all covered in the present law, so far as it is possible to go.

Mr. BLANTON. If the gentleman wants to discuss it I will withhold.

Mr. TAYLOR of Tennessee. I do not want to discuss the point of order, but I want to discuss the merits of the amendment.

Mr. BLANTON. I will withhold my point of order.

Mr. TAYLOR of Tennessee. Mr. Chairman, I desire to take occasion now to state that I am in full accord with the principle of the American merchant marine. While there are provisions in this bill that do not meet with my entire approbation, my belief in the American merchant marine is such that I shall support the bill notwithstanding. I have the honor to represent a district that is distinctly American, a district that believes in flying the American flag in the commerce of all the seas. [Applause.]

I was actuated in offering this amendment mainly by the fact that I have in mind a life-saving device with which not only the vessels which may be benefited by this act should be equipped, but every vessel that plows the deep should be equipped with this life-saving device, or something similar to it.

As far as the point of order is concerned, I do not care to discuss that.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Tennessee. Yes.

Mr. BLANTON. My main objection to the proposition is that it is in line with a propaganda—I do not know whether the gentleman has received it or not, but I know that I have on numerous occasions—that is trying to sell a certain patent of a certain individual to the Government for an enormous sum of money. I do not believe in selling patents or unloading on the Government in any such way as this amendment would ultimately imply.

Mr. TAYLOR of Tennessee. Neither do I; and under this amendment, may it please the committee, any worthy device might be presented and adopted. This amendment is not in the interest of any particular life-saving device, but it is offered in the interest of the seamen and passengers, as well as the cargoes, of all ships flying the American flag.

Mr. BLANTON. I make the point of order now, Mr. Chairman.

Mr. TAYLOR of Tennessee. I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. BLANTON. I make the point of order, Mr. Chairman.

The CHAIRMAN. Does the gentleman desire to be heard on the point of order?

Mr. BLANTON. Yes. It is not germane to the purposes of the bill. It is not germane to the section preceding it. It is extraneous to any feature of this bill.

The CHAIRMAN. May I ask the gentleman, Does it not prescribe certain qualifications that vessels shall have which receive the benefits of this act?

Mr. BLANTON. I think not. You might go ahead and prescribe that they would have to be built out of a certain kind of material or that they all be oil-burning vessels instead of coal-burning, because oil-burning vessels are the best, and it might provide for other features of it.

The CHAIRMAN. Does not the gentleman think Congress has the right to provide that the ships receiving the benefits of this act shall be oil-burning or otherwise?

Mr. HICKS. Mr. Chairman, I do not think the amendment is necessary, because it is already covered in the La Follette Act. But it seems to me that it is clearly in order, because it deals with the registry of ships. I believe it is absolutely in order because it prescribes what should be on these ships that we are providing for. I contend that it is in order.

Mr. DAVIS of Tennessee. There are numerous provisions stated in the bill upon which the subsidy shall be granted, such as speed, the character of ship, the size, the registration, and other things. I think the amendment of my colleague is clearly in order.

The CHAIRMAN. It seems to the Chair that if the Congress so desired it might prescribe that all the ships receiving aid should be painted red, white, and blue. The Congress would have the right to do this. The amendment offered by the gentleman from Tennessee provides that ships receiving aid shall be equipped with a certain kind of life-saving device, which seems to bring this amendment within the rule. Therefore the Chair overrules the point of order.

Mr. HARDY of Texas rose.

Mr. YATES. Mr. Chairman, in reply to and in view of—

Mr. HARDY of Texas. I was asking for recognition when the motion was put.

The CHAIRMAN. The Chair was ready to recognize the gentleman from Texas.

Mr. HARDY of Texas. I will withhold for the time being.

Mr. YATES. Mr. Chairman, in view of the suggestion that we on the Republican side of the House are listening only to the voice of the Republican bosses, I desire to present for the prayerful consideration of the Democratic side of the House a telegram that I have just received from Hon. Edward F. Dunne, ex-Governor of Illinois, a Democrat. He says he would advise keeping the American flag flying on the high seas. [Applause on the Republican side.]

Here is the telegram:

CHICAGO, ILL., November 29, 1922.

HON. RICHARD YATES,
Member of Congress, Washington, D. C.:

Would advise keeping American flag flying on the seas.

E. F. DUNNE,
Ex-Governor of Illinois (Democrat).

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. HARDY].

Mr. HARDY of Texas. Mr. Chairman, I want, like my friend from Pennsylvania [Mr. EDMONDS], to be permitted some little latitude in what I say in these five minutes. We are approaching the close of the debate and reaching a final vote, when the committee will rise and go into the House. When the proper time comes I propose to make a motion to recommit this bill for amendment, in accordance with the views of the minority members of the committee, and that motion will be to strike from the bill the provisions of Title II and the provisions of Title IV.

One of those titles, Title II, contains the provisions for tax exemptions for shipowners and owners of ship property. This title has 13 pages filled with special clauses to lessen the burdens of taxation to this special class and place those burdens upon the general multitude. The second title that we propose to eliminate—that is, Title IV—is the section making provision for direct subsidies.

In the progress of this debate there have been some minor amendments adopted which simply do not touch the root of the evil, but are homeopathic sugar-coated pills, to disguise the bill's iniquities and enable the majority to ram it down the throats of this Congress. Under Title IV, the direct-subsidy part of the bill, there are 24 pages marshaling special benefits that are given to certain great special interests. What are those interests? I will tell you what they are: Those benefits go to the Standard Oil Co. Those benefits go to the United States Steel Co. Those benefits go to the United Fruit Co. Those benefits go to the railroads of the United States that shall own the great ship lines across the ocean. I want to tell you that the four beneficiaries under this act which I have named—the Standard Oil, the Steel Trust, the United Fruit Co., and the railroads—will receive nearly all the benefits of this law. Those four beneficiaries in five years from the date of this act will own 90 per cent of the shipping overseas sailing under the United States flag. I challenge the successful contradiction of that statement.

Mr. BROOKS of Pennsylvania. Will the gentleman yield?

Mr. HARDY of Texas. If I am allowed time.

Mr. BROOKS of Pennsylvania. Would you not rather have Americans have that privilege than foreigners?

Mr. HARDY of Texas. I do not propose to give a hand-out of \$100,000,000 to foreigners or Americans. [Applause.] And no man within the sound of my voice ever dreamed of such a thing until these recent days. Why, when you were in power 15 years ago you had the opportunity, and a greater reason then for giving a subsidy than now. Then under the law and existing conditions American ships cost 50 per cent more than foreign ships, and it was argued, with some reason, that the subsidy was necessary to equalize the additional first cost of our ships; but to-day an American owner will buy his ships more cheaply than they can be bought anywhere else on earth by buying them from the Shipping Board; and the great railroad combinations and other great combinations, who run their ships across the Pacific and Atlantic, will own every line running from the United States, and they will buy these ships from the Shipping Board more cheaply than you can buy them anywhere else in the world. There was some excuse for your offering a subsidy when an American ship cost more than foreign ships, but there is none to-day when the American ship is the cheapest ship in the world.

My motion to recommit is designed to test the Members of this Congress and see what ones of them are willing to vote a hundred millions in tax exemptions and direct subsidies out of the pockets of the people and into the pockets of just four great combinations—the railroads owning ships, the Standard Oil, the Steel Trust, and the United Fruit Co. Three of these are the richest single corporations in the world to-day and their ships carry their own products, and the fourth, the railroads, already have a strangle hold on the private industry of the country. [Applause.]

Mr. MONDELL. Mr. Chairman, I move that all debate on this section and all amendments thereto be now closed.

The CHAIRMAN. The gentleman from Wyoming moves that all debate on this section and all amendments thereto be now closed.

The motion was agreed to.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Tennessee [Mr. TAYLOR].

The question being taken, the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEPARABILITY.

SEC. 711. If any provision of this act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the act and of the application thereof to other persons and circumstances shall not be affected thereby.

Mr. MOORE of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. MOORE of Virginia: Page 63, line 6, add a new section, as follows:

"SEC. 711(a). No provision of this act shall become effective until July 1, 1924."

Mr. MOORE of Virginia. Mr. Chairman, I know the House is anxious to reach a final vote, and I will therefore take only a minute or two to discuss this amendment. It is offered in perfect good faith, and is intended to postpone the effective date of the act until the 1st of July, 1924.

Now I venture to state briefly three propositions: First, that this is a comparatively new measure and that there has been no full opportunity either for the House or for the country to consider it. It is not a life and death matter, and to delay the administration of its provisions, even though it should pass, for less than the 30-month period that has been so often talked about here, and for only about 18 months, certainly will not work any great disadvantage or harm.

The second proposition is that to postpone is in the interest of representative government. There has been a good deal of reference to what an existing Congress should or should not do after the election of a new Congress. My own personal view is that it would be much better and much wiser for the old Congress to devote itself to ordinary business and avoid the consideration of controverted business. There is now reported from a Senate committee a proposal to amend the Constitution so as to bring in at once a freshly elected Congress. I do not fancy the idea of tinkering with the Constitution, but I think it would be very well for Congress itself to determine, and have the backing of the public in determining that a Congress that is just about to go out shall confine itself mainly to the appropriation bills and other routine measures, and allow the incoming Congress freshly elected by the people to take up matters that are really in dispute, and particularly matters that have been made more or less issues in the course of the campaign.

The third proposition is stated for the purpose of showing that so far as I am concerned there is no partisanship in what is suggested by the amendment, the purpose of which is to give the newly elected Congress an opportunity, if it sees fit, to deal with this bill, if it is enacted into law, by amendment or by repeal after the 4th of next March, either in extra session or in the regular session beginning the first Monday of December of next year. And in order to show my friend from Wyoming [Mr. MONDELL], who stands there ready, I have no doubt, to move the closing of the debate, that there is no taint of partisanship in the amendment, I remind him that the next Congress will not be Democratic. The next Congress will be Republican. It will be of the same politics as the President who urges this measure, and certainly there should be no apprehension, if this Republican Congress can be counted upon to adopt this measure because it is meritorious, that the incoming Congress will undertake to repeal or materially amend it. [Applause.]

Mr. MONDELL. Mr. Chairman, I rise in opposition only to say that when a good thing is to be done the sooner you do it the better.

I move to close debate on this section and all amendments thereto.

The CHAIRMAN. The gentleman from Wyoming moves that all debate on this section and all amendments thereto do now close.

The motion was agreed to.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Virginia [Mr. MOORE].

Mr. FREAR. May the amendment be read?

The CHAIRMAN. Without objection, the amendment may be again reported.

The amendment was again read.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Virginia [Mr. MOORE].

The question being taken, on a division (demanded by Mr. MOORE of Virginia) there were—ayes 45, noes 175.

Accordingly the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SHORT TITLE.

SEC. 712. This act may be cited as the "merchant marine act, 1922."

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

Mr. LANHAM. I desire to offer an amendment.

Mr. MONDELL. I will yield to the gentleman from Texas for the purpose of offering his amendment.

The CHAIRMAN. The gentleman from Texas [Mr. LANHAM] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LANHAM: Page 63, lines 8 and 9, after the word "the," in line 8, strike out "merchant marine act, 1922," and insert "ship subsidy act of 1922."

Mr. LANHAM. This is literally an amendment to strike out the last words. This section represents the final coat of camouflage. The ruling passion of the majority party in this measure, which seems to be an effort to deceive, is proving strong to the last. This section reads:

This act may be cited as the "merchant marine act, 1922."

I recall the substance of a statement made by Mark Twain in his *Innocents Abroad*. You know, there is a street in Damascus by the name of Straight. As a matter of fact, it is a very winding and crooked street. Mark Twain observed that St. Luke in referring to it says:

The street which is called Straight—

And then the great American humorist adds—

you notice that St. Luke was careful not to commit himself; he did not say the street was straight, but merely that it was called Straight.

It is much the same with reference to this bill. This final section says:

This act may be cited as the "merchant marine act, 1922."

It does not say that it is indeed a merchant marine act, but that it may be cited as such. The Republicans are careful not to commit themselves to the real fact that in essence and in truth this is a ship subsidy bill. [Laughter and applause.] And this amendment is offered in the final hope that a spade may be called a spade. [Applause.]

Mr. MONDELL. Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, this is one case where "may" means "shall." This bill shall and will be cited as the merchant marine act of 1922 [applause], and as so cited it will bring joy and comfort and gladness to the hearts of those of the American people who love the flag, who glory in the story of its former triumphs on the high seas, and who pray to have it restored to all the water highways of the earth. [Applause.]

Mr. Chairman, at the beginning of this debate certain gentlemen objected to specific provisions in this bill. Gentlemen became quite eloquent, quite excited, I may say without exaggeration, because they felt that under it the Standard Oil and the Steel Trust were to become beneficiaries to a large amount. We believe that it is highly important, particularly in the event of war, that oil tankers and the ships of the steel corporations should carry our flag, but realizing that if these classes of vessels were allowed to share in the benefits of the bill the enemies of the legislation could and would create prejudice against it, the bill has been so amended that these two great organizations do not share in its benefits as to the ships they own and which carry their merchandise. Certain gentlemen objected because of that provision in the bill that gave American shippers in American bottoms a limited exemption in the payment of an income tax. That was a provision inserted in the bill wisely, in my opinion, in order that we might insure the ships we hope to place on the seas with full cargoes; but out of consideration to the tender sensibilities of certain gentlemen who claimed they wanted to vote for the bill if we only give them the opportunity to do so by eliminating everything that did not square with their consciences, we struck those provisions out. Then it was claimed that the bill did not give Congress complete power over the expenditures under the bill, and in order that gentlemen might not have that excuse to vote against the bill, provision was made by which Congress shall have control of all expenditures.

We now present the measure for a vote, with every provision stricken from it that by any possibility could meet with reasonable or even unreasonable objection from the standpoint of those who desire to help pass the measure and accomplish its purposes of establishing and maintaining an American merchant marine. I do not understand, Mr. Chairman, how any man can now vote against this measure unless he is determined that so far as he is concerned he will make no effort whatever to solve the great problem placed on the American people by the building of a great merchant fleet during the war, unless he is prepared to say that as for him and his people he neither desires nor expects to have a merchant fleet that shall carry our flag to all ports of the seven seas.

Mr. Chairman, the question is squarely presented to us, Shall Great Britain and Germany and all our rivals in international trade do all the shipping of the world, including ours, or shall America do her part of it? [Applause.] Shall we provide the ships necessary as auxiliaries of the Navy in any and every emergency, or shall we again be placed in the position that we occupied in the beginning of the World War, where we must depend upon the merchantmen of other nations to carry our men and munitions overseas? Unless we are prepared to say that we have no hope of an American merchant marine, that we have no desire for the maintenance or the building up of an American merchant marine, that we are willing for all time to come that the American flag shall be a stranger to the ports and harbors of the high seas, we must support this bill. Mr. Chairman, I move that all debate on this section be now closed.

The CHAIRMAN. The gentleman from Wyoming moves that all debate on this section be now closed.

The motion was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken, and the amendment was rejected.

Mr. GREENE of Massachusetts. Mr. Chairman, I move that the committee do now rise and report the bill to the House, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. BLANTON. Mr. Chairman, I make a point of order that under the rule adopted November 22, found on the top of page 38, action can not be taken until the hour of 4 o'clock arrives. I call attention to the language, "that the consideration of the bill for amendment shall continue not later than 4 o'clock." [Laughter.] Mr. Chairman, I ask for order, that is not all of it. "Not later than the hour of 4 o'clock postmeridian on November 29, at which hour"—that is, the hour of 4 o'clock postmeridian—"the committee shall rise and report the bill. It says it shall rise and report the bill" at the hour of 4 o'clock postmeridian. I submit to the Chair the point of order that Members of this House had a right to believe that when the rule was passed this vote should not be taken until the hour of 4 o'clock. There may be Members who are away from the Chamber, believing that the rule will be carried out. I submit, Mr. Chairman, that the rule should be carried out and that the committee should not rise and report the bill to the House for vote until 4 o'clock.

The CHAIRMAN. The Chair does not construe the rule as the gentleman from Texas construes it. As the Chair reads the

rule, it means that at any time after the reading of the bill under the five-minute rule for amendment it would be in order by a vote of the Committee of the Whole to report the bill back to the House with such amendments as have been agreed to. In case the debate ran until 4 o'clock this afternoon it would be the duty of the Chair at that hour to declare that by the order of the House the committee should rise and report the bill to the House. Construing the rule in this way, and believing it to be the proper construction of the rule, the Chair overrules the point of order and will put the question.

Mr. GARRETT of Tennessee. Mr. Chairman, the rule provides for the automatic rising of the committee.

The CHAIRMAN. There is a doubt about that, as to whether the committee can rise automatically and report the bill without a vote before 4 o'clock. Therefore the Chair will put the question.

The question is on the motion of the gentleman from Massachusetts that the committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. TILSON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 12817) to amend and supplement the merchant marine act, 1920, and for other purposes, and had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Under the rule the previous question is considered as ordered. Is a separate vote demanded upon any amendment?

Mr. CRAMTON. Mr. Speaker, I ask a separate vote upon the Edmonds amendment on page 31 with reference to liquors.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Chair will put the other amendments in gross. The question is on agreeing to the other amendments.

The other amendments were agreed to.

The SPEAKER. The question is on the amendment on which a separate vote is demanded by the gentleman from Michigan, which the Clerk will report.

The Clerk read as follows:

Page 31, at the end of paragraph (d), insert a new paragraph, as follows:

"(e) Compensation shall not be paid in respect to any vessel for mileage covered upon a voyage if at any time during such voyage liquor for beverage purposes (the sale or transportation of which on land is prohibited by the national prohibition act, or any act in amendment thereof, supplemental thereto, or in substitution thereof) has been transported on the vessel with the knowledge or consent of the owner, charterer, agent, or master of the vessel, or sold on the vessel by or for the account of, or with the knowledge or consent of, the owner, charterer, agent, or master of the vessel."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken; and on a division (demanded by Mr. STAFFORD) there were—ayes 21, noes 207.

Mr. STAFFORD. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER. The gentleman from Wisconsin demands the yeas and nays. As many as are in favor of ordering the yeas and nays will rise and stand until counted. [After counting.] Thirteen Members have arisen, not a sufficient number, and the yeas and nays are refused.

So the amendment was rejected.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. HARDY of Texas. Mr. Speaker, I move to recommit the bill with instructions, which motion I send to the Clerk and ask to have read.

The Clerk read as follows:

Mr. HARDY of Texas moves to recommit the bill to the Committee on Merchant Marine and Fisheries with instructions to the committee to report the same back to the House forthwith with the following instructions:

"Strike from the bill all of the provisions of Title II, which said provisions all relate to granting exemptions from taxation not now allowed by law, and strike from the bill all the provisions of Title IV, all of which relate to granting subsidies to shipowners."

Mr. GREENE of Massachusetts. Mr. Speaker, on that I demand the previous question.

Mr. HARDY of Texas. Mr. Speaker, I demand the yeas and nays.

Mr. SANDERS of Indiana. Mr. Speaker, I make the point of order that the motion to recommit is not in order.

Mr. BLANTON. I make the point of order that that comes too late, the previous question having been moved.

The SPEAKER. If the gentleman states that he was on his feet ready to make the point of order, the Chair will recognize him.

Mr. SANDERS of Indiana. I was.

Mr. GREENE of Massachusetts. Mr. Speaker, I move the previous question.

Mr. SANDERS of Indiana. Mr. Speaker, if the reading of the motion to recommit is correct, the motion to recommit is that the committee send it back to the House with "instructions" to the House. Then, there is an additional matter of argument in the motion.

The SPEAKER. The gentleman is correct. The motion does say "with instructions to the committee to report the same back to the House forthwith, with the following instructions." Obviously the gentleman from Texas has made an error in what he intended to do.

Mr. HARDY of Texas. Mr. Speaker, I ask to modify the motion in accordance with what the Speaker just suggested.

The SPEAKER. The gentleman can withdraw his motion and offer another one.

Mr. HARDY of Texas. Then I offer the following motion to recommit.

Mr. SANDERS of Indiana. Mr. Speaker, I desire first to be heard.

The SPEAKER. The Chair will hear the gentleman from Indiana.

Mr. SANDERS of Indiana. Mr. Speaker, I do not think the precedent ought to be established, after the previous question has been ordered, that a gentleman may offer a motion to recommit and in that motion add an argument or what is supposed to be an argument in favor of the motion. He may make a motion to recommit, or he may make a motion to recommit with instructions to amend, but he can not be permitted to make an argument after the previous question has been ordered.

Mr. GARRETT of Tennessee. Mr. Speaker, I do not think the point of order is well taken. Of course, after the previous question is ordered is the only time that one can offer a motion to recommit under the rules of the House, and so far as there being an argument is concerned, I take issue with the gentleman upon that as a matter of fact. It is true there is descriptive matter in the motion. It gives the subject matter of the title. That is merely for the information of the House, but there is no argument in it.

The SPEAKER. The Chair will not rule at this time; but this is the way it strikes the Chair at first blush: It is true that in this case there is what appears to be a description, but it is hard to say what is description and what is argument.

Mr. HARDY of Texas. Mr. Speaker, I think we can obviate the objection by removing that part of it. I offer the following motion to recommit, which I send to the desk and ask to have read.

The SPEAKER. Without objection, the gentleman withdraws his previous motion to recommit and offers another, which the Clerk will report.

There was no objection.

The Clerk read as follows:

Mr. HARDY of Texas moves to recommit the bill to the Committee on the Merchant Marine and Fisheries, with instructions to the committee to report the same back to the House forthwith with the following amendment:

"Strike from the bill all of the provisions of Title II, and strike from the bill all of the provisions of Title IV."

Mr. GREENE of Massachusetts. Mr. Speaker, I move the previous question on the motion to recommit.

Mr. HARDY of Texas. I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

Mr. GARRETT of Tennessee. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 172, nays 215, answered "present" 1, not voting 44, as follows:

YEAS—172.

Abernethy	Bland, Va.	Byrnes, S. C.	Cramton
Almon	Blanton	Byrns, Tenn.	Crisp
Anderson	Boies	Cantrill	Davis, Tenn.
Andrew, Mass.	Bowling	Carew	Deal
Andrews, Nebr.	Box	Carter	Dickinson
Bankhead	Briggs	Christopherson	Dominick
Barbour	Browne, Wis.	Clague	Doughton
Barkley	Buchanan	Collier	Dowell
Beck	Bulwinkle	Collins	Drane
Bell	Burke	Connally, Tex.	Drewry
Black	Burtess	Cooper, Wis.	Driver

Evans	Jones, Tex.	Moore, Va.	Strong, Kans.
Favrot	Keller	Nelson, A. P.	Sullivan
Fields	Kelley, Mich.	Nelson, J. M.	Summers, Wash.
Fisher	Ketcham	Newton, Minn.	Summers, Tex.
Fitzgerald	Kincheloe	O'Brien	Swank
Frear	Kindred	Oldfield	Sweet
French	Knight	Oliver	Tague
Fulmer	Kopp	Park, Ga.	Taylor, Colo.
Gahn	Kunz	Parks, Ark.	Thomas
Garner	Lampert	Pou	Thorpe
Garrett, Tenn.	Lanham	Quin	Tillman
Garrett, Tex.	Lankford	Rainey, Ala.	Tincher
Gensman	Lazaro	Rainey, Ill.	Towner
Gilbert	Lee, Calif.	Raker	Tucker
Goldsborough	Lee, Ga.	Rankin	Turner
Griffin	Lineberger	Rayburn	Tyson
Hammer	Linthicum	Robison	Upshaw
Hardy, Tex.	Little	Rouse	Vinson
Harrison	Logan	Rucker	Voigt
Haugen	London	Sanders, Tex.	Volstead
Hawes	Lowrey	Sandlin	Ward, N. C.
Hayden	Lyon	Scott, Mich.	Weaver
Hoch	McClintic	Sears	White, Kans.
Hooker	McDuffie	Sinclair	Williams, Ill.
Huddleston	McLaughlin, Mich.	Sisson	Williamson
Hudspeth	McSwain	Smithwick	Wilson
Hull	Maloney	Speaks	Wingo
James	Mansfield	Stafford	Wise
Jeffers, Ala.	Mapes	Steagall	Woodruff
Johnson, Ky.	Martin	Stedman	Woods, Va.
Johnson, Miss.	Mead	Stevenson	Wright
Johnson, S. Dak.	Montague	Stoll	Young

NAYS—215.

Ackerman	Faust	Langley	Reed, N. Y.
Ansorge	Fenn	Larson, Minn.	Reed, W. Va.
Anthony	Fess	Lawrence	Rhodes
Appleby	Fish	Layton	Ricketts
Arentz	Focht	Leatherwood	Riddick
Atkeson	Foster	Lee, N. Y.	Riordan
Bacharach	Free	Lehlbach	Roach
Beedy	Freeman	Longworth	Robertson
Begg	Frothingham	Luce	Rodenberg
Benham	Fuller	Luhling	Rogers
Bird	Funk	McFadden	Rose
Bixler	Gerner	McLaughlin, Nebr.	Rossdale
Blakeney	Gifford	McLaughlin, Pa.	Sanders, Ind.
Bland, Ind.	Glynn	McPherson	Sanders, N. Y.
Bond	Goodykoontz	MacGregor	Scott, Tenn.
Bowers	Gorman	MacLafferty	Shaw
Brennan	Gould	Madden	Shelton
Britten	Graham, Ill.	Magee	Shreve
Brooks, Ill.	Graham, Pa.	Merritt	Siegel
Brooks, Pa.	Green, Iowa	Michener	Sinnott
Burdick	Greene, Mass.	Miller	Slomp
Burton	Greene, Vt.	Mills	Smith, Idaho
Butler	Griest	Millsbaugh	Snell
Cable	Hadley	Mondell	Snyder
Campbell, Kans.	Hardy, Colo.	Montoya	Sprout
Campbell, Pa.	Hawley	Moore, Ill.	Stephens
Cannon	Hays	Moore, Ohio	Strong, Pa.
Chalmers	Henry	Moore, Ind.	Swing
Chandler, N. Y.	Hersey	Morgan	Taylor, N. J.
Chindblom	Hickey	Morin	Taylor, Tenn.
Clarke, N. Y.	Hicks	Mott	Temple
Classon	Hill	Mudd	Tilson
Clouse	Himes	Murphy	Timberlake
Cole, Iowa	Hogan	Nelson, Me.	Tinkham
Colton	Huck	Newton, Mo.	Tridway
Connolly, Pa.	Hukriede	Norton	Underhill
Cooper, Ohio	Humphrey, Nebr.	O'Connor	Valle
Copley	Husted	Ogden	Vare
Coughlin	Hutchinson	Olpp	Vestal
Crago	Ireland	Paige	Volk
Crowther	Jefferis, Nebr.	Parker, N. J.	Walters
Cullen	Johnson, Wash.	Parker, N. Y.	Ward, N. Y.
Curry	Kahn	Patterson, Mo.	Wason
Dale	Kearns	Patterson, N. J.	Watson
Dallinger	Kelly, Pa.	Perkins	Webster
Darrow	Kendall	Perlman	Wheeler
Dempsey	Kiess	Petersen	White, Me.
Denison	King	Porter	Winslow
Dupré	Kirpatrick	Pringey	Woodyard
Echols	Kissel	Purnell	Wurzbach
Edmonds	Kline, N. Y.	Radcliffe	Wyant
Elliott	Kline, Pa.	Ransley	Yates
Ellis	Knutson	Reber	Zihlman
Fairfield	Kraus	Reece	

ANSWERED "PRESENT"—1.

Aswell

NOT VOTING—44.

Brand	Dyer	Kreider	Ryan
Brown, Tenn.	Fairchild	Larsen, Ga.	Sabath
Burroughs	Fordney	McArthur	Schall
Chandler, Okla.	Gallivan	McCormick	Smith, Mich.
Clark, Fla.	Herrick	McKenzie	Steenerson
Cockran	Humphreys, Miss.	Mann	Stiness
Codd	Jacoway	Michaelson	Taylor, Ark.
Cole, Ohio	Jones, Pa.	Osborne	Ten Eyck
Davis, Minn.	Kennedy	Overstreet	Thompson
Dunbar	Kitchin	Ramsayer	Williams, Tex.
Dunn	Klecza	Rosenbloom	Wood, Ind.

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On the vote:

Mr. Brand (for) with Mr. Dunbar (against).

Mr. Aswell (for) with Mr. Kreider (against).

Mr. Cockran (for) with Mr. Codd (against).

Mr. Sabath (for) with Mr. Mann (against).

Mr. Kitchin (for) with Mr. Burroughs (against).
 Mr. Clark of Florida (for) with Mr. McArthur (against).
 Mr. Schall (for) with Mr. Dunn (against).
 Mr. Taylor of Arkansas (for) with Mr. Smith of Michigan (against).
 Mr. Overstreet (for) with Mr. Ryan (against).
 Mr. Michaelson (for) with Mr. Thompson (against).
 Mr. Williams of Texas (for) with Mr. Jones of Pennsylvania (against).
 Mr. Jacoway (for) with Mr. Osborne (against).
 Mr. Ramseyer (for) with Mr. Chandler of Oklahoma (against).
 Mr. McKenzie (for) with Mr. McCormick (against).
 Mr. Humphreys of Mississippi (for) with Mr. Fordney (against).
 Mr. Herrick (for) with Mr. Stiness (against).
 Mr. Larsen of Georgia (for) with Mr. Rosenbloom (against).

General pair:

Mr. Dyer with Mr. Gallivan.

Mr. ASWELL. Mr. Speaker, I voted "aye," and I am paired with the gentleman from Pennsylvania [Mr. KREIDER] and desire to answer "present."

The name of Mr. ASWELL was called, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. GARRETT of Tennessee. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 208, nays 184, answered "present" 2, not voting 38, as follows:

YEAS—208.

Ansorge	Fess	Lawrence	Reed, W. Va.
Anthony	Fish	Layton	Rhodes
Appleby	Fitzgerald	Leatherwood	Ricketts
Arentz	Focht	Lee, N. Y.	Riddick
Atkeson	Foster	Lehlbach	Riordan
Bacharach	Free	Longworth	Roach
Beedy	Freeman	Luce	Robertson
Begg	Frothingham	Luhning	Rodenberg
Benham	Fuller	McFadden	Rogers
Bird	Gerner	McLaughlin, Mich.	Rose
Bixler	Gifford	McLaughlin, Pa.	Rossdale
Blakeney	Glynn	McPherson	Sanders, Ind.
Bland, Ind.	Goodykoontz	MacGregor	Sanders, N. Y.
Bond	Gorman	MacLafferty	Scott, Tenn.
Bowers	Gould	Madden	Shelton
Brennan	Graham, Ill.	Magee	Shreve
Britten	Graham, Pa.	Merritt	Siegel
Brooks, Ill.	Greene, Mass.	Miller	Sinnott
Brooks, Pa.	Greene, Vt.	Mills	Slemp
Burdick	Hadley	Millsbaugh	Smith, Idaho
Burton	Hardy, Colo.	Mondell	Snell
Butler	Hawley	Montoya	Snyder
Cable	Hays	Moore, Ill.	Sprout
Campbell, Kans.	Henry	Moore, Ohio	Stephens
Campbell, Pa.	Hersey	Moore, Ind.	Strong, Pa.
Cannon	Hickey	Morgan	Swing
Chalmers	Hicks	Morin	Taylor, N. J.
Chandler, N. Y.	Hill	Mott	Taylor, Tenn.
Chindblom	Himes	Mudd	Temple
Clarke, N. Y.	Hogan	Murphy	Tilson
Claason	Huck	Nelson, Me.	Timberlake
Clouse	Hukriede	Newton, Mo.	Tinkham
Colton	Humphrey, Nebr.	O'Connor	Treadway
Connolly, Pa.	Husted	Ogden	Underhill
Copley	Hutchinson	Olpp	Vale
Coughlin	Ireland	Palge	Vare
Crago	Jeffers, Nebr.	Parker, N. J.	Vestal
Crowther	Johnson, Wash.	Parker, N. Y.	Voik
Cullen	Kahn	Patterson, Mo.	Walters
Curry	Kearns	Patterson, N. J.	Ward, N. Y.
Dale	Kelly, Pa.	Perkins	Watson
Dallinger	Kendall	Perlman	Webster
Darrow	Kiess	Petersen	Wheeler
Dempsey	King	Porter	White, Me.
Dupré	Kirkpatrick	Pringle	Winslow
Echols	Kissel	Purnell	Wood, Ind.
Edmonds	Kline, N. Y.	Radcliffe	Woodyard
Elliott	Kline, Pa.	Ransley	Wurzbach
Ellis	Kraus	Reber	Wyant
Fairfield	Langley	Reece	Yates
Faust	Larson, Minn.	Reed, N. Y.	Zihlman
Fenn			

NAYS—184.

Abernethy	Browne, Wis.	Cramton	French
Ackerman	Buchanan	Crisp	Fulmer
Almon	Bulwinkle	Davis, Minn.	Funk
Anderson	Burke	Davis, Tenn.	Gahn
Andrew, Mass.	Burtess	Deal	Garner
Andrews, Nebr.	Byrnes, S. C.	Denison	Garrett, Tenn.
Bankhead	Byrnes, Tenn.	Dickinson	Garrett, Tex.
Barbour	Cantrill	Dominick	Gensman
Barkley	Carew	Doughton	Gilbert
Beck	Carter	Dowell	Goldsbrough
Bell	Christopherson	Drane	Green, Iowa
Black	Clague	Drewry	Griffin
Bland, Va.	Cole, Iowa	Driver	Hammer
Blanton	Collier	Evans	Hardy, Tex.
Boies	Collins	Favrot	Harrison
Bowling	Connally, Tex.	Fields	Haugen
Box	Cooper, Ohio	Fisher	Hawes
Briggs	Cooper, Wis.	Frear	Hayden

Hoch	Lineberger	Quin	Swank
Hooker	Linthicum	Rainey, Ala.	Sweet
Huddleston	Little	Rainey, Ill.	Tague
Hudspeth	Logan	Raker	Taylor, Colo.
Hull	London	Rankin	Thomas
James	Lowrey	Rayburn	Thorpe
Jeffers, Ala.	Lyon	Robison	Tillman
Johnson, Ky.	McClintic	Rouse	Tincher
Johnson, Miss.	McDuffie	Rucker	Towner
Johnson, S. Dak.	McLaughlin, Nebr.	Sanders, Tex.	Tucker
Jones, Tex.	McSwain	Sandlin	Turner
Keller	Maloney	Scott, Mich.	Tyson
Kelley, Mich.	Mansfield	Sears	Upshaw
Ketcham	Mapes	Shaw	Vinson
Kincheloe	Martin	Sinclair	Voigt
Kindred	Mead	Sisson	Volstead
Klecza	Michener	Smithwick	Ward, N. C.
Knight	Montague	Speaks	Weaver
Knutson	Moore, Va.	Stafford	White, Kans.
Kopp	Nelson, A. P.	Stegall	Williams, Ill.
Kunz	Nelson, J. M.	Stedman	Williamson
Lampert	Newton, Minn.	Steenerson	Wilson
Lanham	O'Brien	Stevenson	Wingo
Lankford	Oldfield	Stoll	Wise
Larsen, Ga.	Oliver	Strong, Kans.	Woodruff
Lazaro	Park, Ga.	Sullivan	Woods, Va.
Lea, Calif.	Parks, Ark.	Summers, Wash.	Wright
Lee, Ga.	Pou	Summers, Tex.	Young

ANSWERED "PRESENT"—2.

Aswell

Sabath

NOT VOTING—38.

Brand	Dyer	Kreider	Ryan
Brown, Tenn.	Fairchild	McArthur	Schall
Burroughs	Fordney	McCormick	Smith, Mich.
Chandler, Okla.	Gallivan	McKenzie	Stiness
Clark, Fla.	Herrick	Mann	Taylor, Ark.
Cockran	Humphreys, Miss.	Michaelson	Ten Eyck
Codd	Jacoway	Osborne	Thompson
Cole, Ohio	Jones, Pa.	Overstreet	Williams, Tex.
Dunbar	Kennedy	Ramseyer	
Dunn	Kitchin	Rosenbloom	

So the bill was passed.

The Clerk announced the following additional pairs:

On this vote:

Mr. Kreider (for) with Mr. Aswell (against).
 Mr. Mann (for) with Mr. Sabath (against).
 Mr. Dunbar (for) with Mr. Brand (against).
 Mr. Codd (for) with Mr. Cockran (against).
 Mr. Burroughs (for) with Mr. Kitchin (against).
 Mr. McArthur (for) with Mr. Clark of Florida (against).
 Mr. Dunn (for) with Mr. Schall (against).
 Mr. Smith of Michigan (for) with Mr. Taylor of Arkansas (against).

Mr. Ryan (for) with Mr. Overstreet (against).

Mr. Thompson (for) with Mr. Michaelson (against).

Mr. Jones of Pennsylvania (for) with Mr. Williams of Texas (against).

Mr. Osborne (for) with Mr. Jacoway (against).

Mr. Chandler of Oklahoma (for) with Mr. Ramseyer (against).

Mr. McCormick (for) with Mr. McKenzie (against).

Mr. Fordney (for) with Mr. Humphreys of Mississippi (against).

Mr. Stiness (for) with Mr. Herrick (against).

Until further notice:

Mr. Dyer with Mr. Gallivan.

Mr. SABATH. Mr. Speaker, I am paired with my colleague [Mr. MANN] of Illinois, who is ill. I was paired with him on the other vote. I desire to know if he voted on this vote.

The SPEAKER. No; he did not.

Mr. SABATH. Then I desire to withdraw my vote and answer "present."

The result of the vote was announced as above recorded.

On motion of Mr. GREENE of Massachusetts, a motion to reconsider the vote by which the bill was passed was laid on the table.

LEAVE TO EXTEND REMARKS.

By unanimous consent, leave to extend remarks in the Record was granted—

To Mr. GRIFFIN.

To Mr. SABATH.

To Mr. ROSSDALE. (On veterans' hospitalization and on the merchant marine bill.)

The extensions of remarks referred to are here printed in full as follows:

Mr. GRIFFIN. Mr. Speaker, no man ought to be blamed for consistency, yet so strange is the perversity of human law we frequently put him in jail. In putting forth this ship-subsidy proposal at this time the Republican Party must be complimented; it is running true to form; it is perfectly consistent in the policy which has characterized its recent history of catering to special interests at the expense of the taxpayers. The ship subsidy bill is the culmination of that policy; it is the

consummation of their economic program; it is the natural sequel of the enactment into law of a series of economic fallacies.

In order to understand and place this legislation in its true historic perspective we must go back to the great World War. The country incurred debts of great magnitude, unlike anything before in its history. The people had contributed their sons to the battle fields and gave up cheerfully of their substance in order to bring victory to our cause. While our boys were fighting in France their families at home were robbed by profiteers and immense fortunes were made out of the necessities of the Nation. The immense profits which the war accorded to the few were not begrudged at the time, because they were looked upon as among the inevitable incidents of war times. But there was a feeling that the great trusts which were profiting so handsomely by the war should contribute a part of their excess profits toward meeting the obligations of the Government arising out of the war, and that sentiment was crystallized into the act providing for the payment of a tax on excess profits. That act yielded the Government an immense revenue, but the greed and avarice of great wealth stirred up a propaganda to secure the repeal of the law which made them disgorge their unconscionable profits. This propaganda fell upon willing ears in the Congress that was elected two years ago, and their first act of important legislation was to repeal the excess-profits tax.

The effect of this repeal was almost instantly reflected in our Treasury receipts. In the fiscal year ending June 30, 1921, the revenue income of the Government was \$4,600,000,000. In the fiscal year ending June 30, 1922, our revenue receipts dropped to \$3,200,000,000, a loss of \$1,400,000,000 in revenue, as a result of Republican generosity to the trusts and moneyed interests of the Nation. This was the first error in economic policy.

The next step in the program was in the nature of an effort to recoup the national revenue losses by a new tariff bill—a bill which was to be neither flesh nor fowl—a weird economic Frankenstein which was to be designed to raise revenue and at the same time to protect American industry. Of course the veriest tyro in economic philosophy could detect the fallacy in such a program. It is not necessary to charge its authors with ignorance of economic law. They could not help but know that if they built a tariff wall around the Nation high enough to protect American industry to the extent demanded by its beneficiaries the revenue resulting from such customs duties would be almost negligible. It is therefore more creditable to their learning and judgment to say that they knew very well what they were about, and that their design was more to provide a monopoly for the profiteers than to furnish a revenue to our depleted coffers. The bill which they enacted into law, known as the Fordney tariff, augmented duties upon the necessities of life to such an extent that the profiteers are assured of being able to gouge the American people out of \$6,000,000,000 per year. On the other side of the ledger it will yield our Government not to exceed \$500,000,000 per year. In other words, for every dollar going into the national coffers through the customhouses of the land the profiteers will be able to put \$12 in their own pockets.

As fully and completely as the Fordney Tariff Act seemed to protect all kinds of American industry, there was one gap in the profiteers' armament left unprovided for, namely, the shipping industry. In fact, the shipping industry was actually hurt. It has been a sore spot to the Republican statesmanship for years that they have never been able to round out their economic policy. They have been troubled with remorse. They know that their protective tariffs have ruined any merchant marine we ever had and eliminated any prospect of building one up; therefore, I repeat, that they are perfectly consistent in going the full length in their policy in protecting ships as they have protected shops. Of course, it is a matter of very little concern to the plutocrats and their friends how great may be the burden they impose upon the backs of the taxpayers. Their slogan is, "First shops, now ships"; alas, poor shoppers!

It is amusing to hear references made to the pledges in the Republican platform of 1920. I thought that was a matter of ancient history. It has been so little lived up to, except in respect to the promises made to the profiteers, that I did not expect any Republican to be bold enough to refer to it. Was the subsidy declaration in the platform of 1920 any more solemn or binding than the pledge for the soldiers' bonus? That was disregarded very lightly, and I expect that the shipping pledge would not have given much concern if it were not for the big financial interests at stake. But why worry about the platform of 1920? The people have spoken again in 1922, and 170 of the present Congress bear the marks of their wrath.

The shoppers of the Nation have had an opportunity to observe the blessings of Republican policies. There is not a

workingman in the land who does not behold on all sides of him and suffer in his pockets the results of Republican economic fallacies. With clothing and foodstuffs, coal, fuel, and rent augmented beyond endurance, he is in no temper to behold with equanimity the presentation of further largesses to the profiteers.

It is said that it was designed to pass the ship subsidy bill as a Thanksgiving gift to the shipping and financial interests. That was done in the House according to program, but it is destined to meet with a snag in the Senate. It reminds me of the story of the clever white man and innocent red man who went hunting. As a result of their day's work they brought to camp a lean buzzard and a fat turkey. The white man said to the Indian, "Will you take the buzzard and I take the turkey, or will I take the turkey and you take the buzzard?" The American shopper—in other words, the consumer—is not in any humor at the present time to take a buzzard in the nature of a ship subsidy to round out Republican policies.

There has been a good deal of talk in this debate about putting the American flag back upon the seas. Who drove it off the seas? If we solve that riddle we will go far toward settling the question as to how it can be again restored to its pristine supremacy. If we trace back the history of our merchant marine we will find that it began to wane the moment this country, under misguided statesmanship, undertook to build up prohibitive tariffs. We made it impossible through these foolish laws either to build ships or to operate them.

The men who are going to profit by this bill can wave the American flag in vain. It is a part of our history that whenever any special interest has knocked at the door of Congress for special legislation it has invariably disguised its purpose by flaunting the American flag; so that now such tactics excite suspicion. We rightly suspect the man who unfurls the American flag to promote his own interest in time of peace. He may get away with it in war times, but in times of peace I would reverse General Dix's war mandate and say, "Any man who unfurls the American flag shoot him on the spot." The American flag should be the inspiration of men marching to battle, and not the camouflage of profiteers making a raid on the United States Treasury.

The United States Chamber of Commerce appointed a committee of 15 to study the ship-subsidy question. Eight out of the 15 are in the shipping business, and the others are more or less tied up with financial interests. Of course, they reported in favor of a ship subsidy, and the same ratio will be observed in all of the boards of trade and transportation which have bombarded Members of Congress with resolutions upon the subject. The question for us to consider is how the American consumer feels, and the best evidence of that is furnished by the American Federation of Labor and the various brotherhoods of workingmen throughout the land. They all agree in characterizing the pending subsidy bill as "a most vicious effort to enrich big financial interests at the expense of the farmers, the wage earners, and small business men of the Nation."

MR. SABATH. Mr. Speaker, there is nothing that I can say or could have said on the pending bill which would be more effective and would express the reasons and objections to the bill as forcibly and clearly than which are contained in a letter I have received from the great student of economic conditions, the champion not only of the laboring man of this Nation but one who has at all times the interest of America at heart, Hon. Samuel Gompers, president of the American Federation of Labor, which I herewith insert as a part of my remarks:

AMERICAN FEDERATION OF LABOR,
Washington, D. C., November 28, 1922.

DEAR MR. SABATH: Because the ship subsidy bill is to come before you on Wednesday for a vote I take the liberty of communicating with you at this time in order to lay before you a point of view which will, I am sure, impress you as worthy of consideration.

I am convinced that the country in the recent election intended to convey among other things its hostility toward the proposed subsidy. However, there are others who either do not so interpret the country's decision or who do not see fit to follow the country's decision.

It is unlikely that anyone has given the subsidy bill more careful study than has the American Federation of Labor. We have tried to find if by any possibility there was anything constructive and helpful in the measure. We are bound as the result of study to condemn the measure without reservation.

If study of the bill itself has failed to convince labor of its soundness, the debate upon it thus far has been equally without result. Little that has been said in official circles indicates any real understanding of the subject.

When former subsidy bills were before Congress the whole cry was ships, ships, ships, give us ships and we will have a merchant marine. Now we have the ships, and the one great question is, What are we going to do with them? We can not compete, so it is stated, and as things really are it is largely true.

Within the last two years the shipowners and the Shipping Board have done their utmost to destroy what skill and efficiency exist on American vessels at sea. That they are doing this consciously is not

conceivable. They are doing it, however, and evidently because they do not understand that the human element in shipping, as in all other competition, is the determining factor. While we are driving all the skilled men from the sea England is drawing to herself the skilled men by her policy. This last spring England adopted the policy of gradually getting rid of inefficient men. She is doing it by a combination between the seamen themselves through their organization, the shipowners through their organization, and the board of trade. The officers on the vessels provisionally select the men, who then go to the office of the union to be further passed upon under a regulation known as port consultant regulation No. 5. Under this system and the wages paid she is drawing to herself the efficient men and pushing the inefficient men over to us.

When the war ended Germany had no ships. She had shipowners who knew commercial geography, and therefore were to have their ships if possible at a given time. She had officers and seamen who could handle ships at sea and in harbor and keep those ships out of the repair yards. She is coming back into ocean carrying with the speed of a race horse. We have the ships, but our shipowners seem to have no understanding of the world's freight market or commercial geography nor any appreciation of the skill and efficiency needed on board of vessels, and we are spending money stupidly if not criminally. Why is it that business men who ordinarily have common sense seem to be incapable of realizing that in the competitive business success is determined by the human element to the extent of at least 75 per cent, while something less than 25 per cent is dependent upon the material element?

The subsidy bill now before you will not bring men and competence into the merchant marine. It will bring enormous sums of money into the pockets of a group of subsidized shipping financiers, and this group will constantly grow smaller under the monopoly-creating provisions of the bill.

Labor's position on the question of subsidy remains without change. The most strenuous efforts have been made to bring about a change in this position. In earlier years shipowners resorted to attempts at bribery, these being matters of official court record. I know of no such crude efforts in connection with the present bill, but in abundant measure friends of the bill have used subtler methods. Our position on this bill, however, is based on a study of the bill itself. It is without doubt one of the most brazen Treasury-looting schemes ever devised.

And scoundrelly measures, like scoundrelly men, take refuge in patriotism when no other offers. The bill is urged on grounds of patriotism. It is difficult to think of anything more unfitting.

This bill will not give America a merchant marine, though it may give us a bankers' marine. Labor joins with all others who want a well-manned adequate merchant marine. But it denounces this bill as a fraud, a robbery, and wholly indefensible.

Let it not be forgotten, either, that once enacted the bill must remain in force for 20 years. Contracts made for that length of time will tie the hands of future Congresses.

I am laying these views before you in behalf of the executive council of the American Federation of Labor and in conformity with the findings on the subject as approved by the last convention of the American Federation of Labor.

Sincerely hoping that the above may receive your early and favorable support, I am,

Very truly yours,

SAM'L GOMPERS,

President American Federation of Labor.

Hon. ADOLPH J. SABATH,
House Office Building, Washington, D. C.

Mr. ROSSDALE. Mr. Speaker, the merchant marine, or, as it is popularly termed, the "ship subsidy bill," is intended as a practical measure to keep America's flag upon the seas. It is based upon a system that has been long in practice by all the great maritime nations. It is fundamentally a sound business plan to enable our merchant shipping to compete with its foreign rivals.

In all likelihood this or any plan of ship subsidy or Government aid for ships is the least understood and most misrepresented of all great public questions. Whenever in the history of our country a subsidy of any kind for any particular purpose was at issue, it was always attacked as in the interest of a part of the people as against the interests of all of the people.

It is perhaps unfortunate in a sense that this merchant marine measure is called a "subsidy," since it provides its enemies with a subtle weapon of attack. To the unthinking and the shortsighted a subsidy always conjures up imaginative thoughts of the Government giving away something to somebody in which all will not share except in the payment of the cost thereof.

The principle of a subsidy is not new. It has been practiced throughout our history. It began with favored land grants to encourage settlements in early colonial days. At a later period we assisted private railroad construction across the then almost limitless expanse of prairie and forest by extensive grants of money and land. The area of lands granted in the form of subsidies to aid railroad construction in the United States is said to be equal to that of the thirteen original States and is greater than the area of Germany and Italy combined, or of France, Belgium, and Great Britain.

The previous Sixty-sixth Congress re-created the "War Finance Corporation." Its functioning in peace times is a subsidy to American farmers. This Congress enacted tariff legislation, which is a form of subsidy to American producers. The immense Federal appropriations for good roads are subsidies to the granger communities, some of whose representatives are conspicuously ranged in opposition to this bill.

Our second-class postage rate is also a form of subsidy. If we examine its cost, we find it is the biggest subsidy of them

all. Publishing newspapers and periodicals is a business, yet newspapers and periodicals are educational and a public necessity; hence we subsidize them to the extent of carrying them in the mails at a heavy loss. Few, if any, however, will dispute the wisdom of the Government giving the press this preferential postage rate aid.

How often have those who now loudly decry against a ship subsidy argued and fought for Government aid for various other projects. Not every subsidy is generally known by its title. However, to me a subsidy by any other name is no less a subsidy. I have no apprehension on the score of Government aid in private endeavor when benefiting the public in general.

This much-debated ship subsidy is not an innovation. Long ago the United States built up a considerable ocean passenger and carrying trade by subsidies. If the darkening shadows of the threatened Civil War had not clouded and obscured the vision of the Government in the late fifties, our ship-subsidy policy would not have been abandoned, and perhaps America, and not Great Britain, would since have had the commercial mastery of the seas.

It is conceded even by the opposition that an American merchant marine is desirable. There are few who will dispute that American ships, owned by Americans, manned with American crews, riding the waves, and carrying our commerce, are of benefit to all of our people.

The opposition of our Democratic friends on the other side of this Chamber is the usual opposition of a minority who oppose legislation presented by the majority. Looking backward for a brief span of years, from 1914 to 1920, this Democratic opposition to a merchant marine now appears ludicrous. Why, the Shipping Board, with its iniquitous Government ownership and operation of ships, was wholly a Democratic Party creation. Three billions of good American dollars was sunk in that huge fleet that now lies rusting and rotting for want of an intelligent, practical subsidy operation plan.

Democratic opposition to a merchant marine now is purely political. It is pandering to the prejudices that exist in many districts far removed from salt water. This inland reaction against a merchant marine is merely temporary. It can only be explained upon the ground of a mistaken belief at present existing in the interior agricultural sections that this is a seacoast proposition which only indirectly affects them.

It would be useless to deny that it will confer great benefits upon our seacoast cities. Perhaps it will benefit them to a larger extent than it will the granger country in the South and West; but whatever directly benefits a part of our country must indirectly benefit all the rest, whether along the seacoast or in the interior.

It may be that there are those in the tobacco, cotton, corn, or wheat growing districts who do not look with favor upon this legislation upon the theory that shipping is of remote concern to them. To those I would say the benefits of keeping the Stars and Stripes upon the seas accrue to the entire Nation and not, as is intimated, only to shipping interests along the seacoast. Is there a farmer, grower, stockman, trader, or merchant in any of those districts who, pressed for a reply, would not say he preferred to have his products shipped in American bottoms? Of course he would prefer it. Let us give them the opportunity. Under the operation of this proposed act it will annually cost about thirty or thirty-five million dollars for a ship subsidy, or about 30 cents per capita per annum for every man, woman, and child in the United States. What American would not give 30 cents each year to keep our flag afloat?

This bill is not to create a new merchant marine. We already have one. It is a war-time legacy from the Wilson administration. It is to utilize the fleet of 1,442 steel vessels, totaling 7,000,000 tons, that we already have, most of which is idly riding at anchor in our harbors.

It is intended to salvage and place in operation the larger portion of this fleet, which was created in that stupendous riot of war-time extravagance, that staggering spending orgy of billions of dollars.

The present Shipping Board reduced its annual deficit to about \$50,000,000. This outlay represents the most economical Government operation possible. It has about 350 vessels in actual operation. The balance of the fleet lies idle, slowly deteriorating. Already many of these ships have become unseaworthy and are only fit for the junk man to dismantle. Unless the others are soon placed in operation they, too, will have to be scrapped.

It is patent to all who have studied the subject that Government operation can not successfully compete with private operation of our foreign shipping rivals, who enjoy the favor of subsidies from their governments. If we are to salvage the

balance of the fleet now idle, private operation must supplant the present system. It can only be done by subsidy, which will cost even less than Government operation does at present.

If the plan offered in this bill is not a good solution of our shipping difficulties, what substitute plan is offered by the opposition in its stead? I have closely followed the criticism brought out in the debate and fail to perceive any substitute presented to solve the problem.

It is admitted that there is no foreign purchasers' market for the ships at even a fraction of its present replacement value. A continuation of the present costly Government operation is not feasible. In the absence of any other method, perhaps taking the ships to sea and sinking them would be cheaper in the long run, but such cowardly action would clearly be indefensible and is not to be thought of.

I was raised in the great throbbing seaport of New York, and lived there all my life. I have had abundant opportunity to observe and study merchant shipping. The numerous advantages of a merchant marine are perhaps better understood by those who are closest to its operations.

As a boy I spent much spare time along the water front. I used to play about the wharves and piers where the big ships docked. I recall the strange looking sailormen of the varied ship crews. They were almost all foreign vessels that came to our port then. On those rare occasions when a ship came in flying our flag the youngsters on shore would shout with glee to see the stars and stripes at the masthead. Often in boyish wonder we queried why there were so few American ships.

In later years I learned the reasons why American ships were seldom seen in those days, and I am glad the time is now happily gone by, and may it never be again that the merchandise we import will come to our ports mostly in foreign vessels while the products of our farms, fields, and factories are exported in the same foreign bottoms.

Our course is clear, we must either decide to continue the present costly Shipping Board Government operation that can only operate a small part of our fleet or else pass this subsidy bill that will send the greater portion of these modern argosies we possess sailing the seas from our ports to and from every port everywhere on the habitable globe.

THE POWERS AND DUTIES OF A FEDERAL GRAND JURY.

Mr. WOODRUFF. Mr. Speaker, one of the most powerful agencies to reach and combat crime in high places is the Federal grand jury, and when the law is falling down in high places the average citizen should be educated in the civic duties which he or she may be called upon to perform.

At the request of Capt. H. L. Scaife, counsel for the Woman's Clean Government Organization, which is doing a great work in this country in the cause of civic righteousness, I ask unanimous consent to insert in the Record the instructions to the grand jury delivered by Judge John M. Killits, of the United States district court at Toledo, Ohio, in which the powers and duties of the grand jury are set forth in a clear and able manner:

INSTRUCTIONS TO GRAND JURY, APRIL 25, 1921.

(By Judge John M. Killits, United States District Court, Toledo, Ohio.)

It seems necessary to formally and thoroughly charge the present grand jury, and it is greatly to be desired, first, that your body should understand its place as part of the machinery of the court. You are organized under the common law, with all the characteristics and functions which pertain to such an organization.

GRAND JURY AN INDEPENDENT BODY.

When once empaneled, you have an independent, if a related, function in the administration of the law. It is the independence of the grand jury of any control when acting lawfully that should be emphasized in your understanding. That is the most effective characteristic justifying and making practical the grand-jury system.

Your body is complete within itself. Your duties are to inquire into the social conditions of this division of 21 counties and to advise by bill of indictment or otherwise respecting the observance therein of the laws of the United States. You may inquire into any transaction which has transpired within the past three years and which can be reported to the court by bill before that period has expired. In the exercise of your duties you have no control over you except the law and the facts.

COURT POWERLESS TO DIRECT.

The court has no power to direct you to do anything or to omit to do anything, so long as you are acting properly within your inquisitorial functions. It is impossible for the court to say that you shall or that you shall not direct the prosecution of any person. All we can say is that if the law as you understand it and the facts which come to your attention suggest to your judgment a probability that a Federal crime has been committed in any instance, and that the facts suggest further the personality of the probable offender, you should present a bill of indictment; but that if the conditions of law and fact do not so satisfy your judgment, you should not return a bill of indictment. The court may control your judgment of the law, and you should look to the court alone as your conclusive guide as to what the law is pertaining to any particular case, but the court has no power to influence your judgment of fact.

DISTRICT ATTORNEY MAY NOT COMMAND.

What has been said respecting the court's lack of power to interfere with your work applies with equal force to the office of the district attorney. He and his assistants have in no sense any direction over you. You are in no particular subject to their instruction. They are your servants, to assist you, to be of use to you, but no one of them is even indispensable. You will make use of them, consider their advice as to the law and their suggestion as to the probative force of the facts, but you should thoroughly understand that their capacity is that of servants to the grand jury and that you, and neither the court nor any one from any Government office, are the sole judges of the facts. It is entirely competent for you to conduct your investigations in the absence of any representative of the district attorney's office.

GRAND JURY SOLE AUTHORITY.

I hope that there will be no misunderstanding respecting any of the foregoing. There is no authority anywhere to say who shall or who shall not be prosecuted for an offense against the United States, not the court, not the Attorney General, not the district attorney or any one of his assistants—no authority except for the time being this grand jury. The Attorney General for the President, the district attorney, the court, may advise—none may order.

GRAND JURY MAY ORDER SUBPENAS.

As a matter of convenience, you will doubtless depend upon the district attorney or one of his assistants for the summoning of witnesses before you and for the range of inquiry respecting any particular matter, but you are advised, with the trust that you will heed the advice, that this is a matter of convenience only and not of obligations upon this grand jury. It is competent, and possibly it may, at times, become important, for you to direct your foreman by vote or otherwise to summon witnesses whose names may occur to the body or any individual member of it, and the foreman is authorized by law to execute the will of the grand jury in that behalf, by filing with the clerk a precept for the subpoenaing of witnesses, whether such a course meets with the approval of the district attorney, the Attorney General, or even of the court. In such cases it is the duty of the clerk and the marshal to issue and cause to be served such subpoenas. You have the power of your own motion to command the presence before you as a witness of any person anywhere within the territorial limits of the United States. A subpoena directed by you runs beyond the limits of this district. No power but your own good judgment controls you here. Only a manifest abuse of discretion by you may go before even the court.

HOW CASES APPEAR—TRANSCRIPTS.

Cases may come to this grand jury in four ways. Each is of equal dignity. And once a case comes to the grand jury in any of these ways, it should receive the same sort of consideration. First, a case may come formally through the fact that some person has been bound over to the grand jury through the action of a court commissioner. Such a case is called a transcript case. It is necessary that formal action thereon be taken by the grand jury and formal report made to the court upon every transcript case because it is already on the court's docket. On the occasion of the final report of the grand jury, there should be presented to the court a statement in writing which gives the title of every transcript case which has been presented to the grand jury, as to which it was the formal judgment of the grand jury that no bill should be returned. This report should not be made until the grand jury is ready for discharge, because it is within the power of the grand jury at any time during its session to reconsider any case in which action has hitherto been had, if unreported. No action of the grand jury ignoring a transcript case is final to the release of the transcript defendant's bond until the day of the final discharge of the grand jury.

DISTRICT ATTORNEY'S REPORT.

A second method of bringing cases to the grand jury is through verbal representations of the district attorney or his assistants. It is the district attorney's duty to inform the grand jury respecting any probable violation of law which has come to his attention and to assist the grand jury in examining into the matter. In cases of this character, if no bill is voted, there is no necessity and it is inexpedient to make a formal report thereof to the court.

GRAND JURY'S INITIATIVE.

A third manner in which cases may properly come before the grand jury is through the interest in any matter which may appeal to any member of the grand jury. Should any one of your body receive significant information concerning a probable violation of law, it is his duty to take into his confidence his fellow jurors, and it is your privilege, and may in some instances be your duty, to proceed with a thorough examination into the matter without relation to the wishes of any other officer of the Government or of the court. In this respect you have an independent initiative, and in the exercise of this function lies the greatest usefulness often of a grand jury as the conservator of law and order. It is a power which should be carefully and discreetly exercised but which, when once entered upon, should be proceeded with fearlessly, impartially, and firmly. Respecting its exercise, your foreman is subject to the majority will of the grand jury, and the breadth and scope of your investigations are limited only by the law itself. The court can do nothing more than simply to hold you to observe the law. The court commends to your most earnest consideration this independent power enjoyed by you.

COURT'S SUGGESTIONS.

A fourth way in which matters may come to the grand jury's attention is through the recommendation of the court itself. We propose further in this charge to direct your attention to some matters which seem to the court to be of sufficient importance to merit your consideration. You will observe, however, that once the court has suggested these matters to you, the court's function in that behalf ends. We have no power to enter into your deliberations and to control your conclusions. You will please observe also that in reporting these matters to you, the court is not at all offering an opinion whether there is a probable cause to find an indictment. We do not even attempt to advise you what the facts are. They are for you to discover in a more legitimate way. In venturing an instruction to you respecting any one of these matters, we apply the law to a purely supposititious state of facts, and in no way must the court be understood as advising that facts exist in any case sufficient to demand of you a bill of indictment.

TWELVE GRAND JURORS MAY ORDER BILL.

No bill of indictment can be returned unless it is ascertained, by any definite way satisfactory to the grand jury, that at least 12 of its members so decide, in which case it is the duty of the foreman to sign, and of the district attorney to prepare and indorse, a bill of indictment, no matter what may be their individual views respecting the providence of such action.

EVIDENCE BEYOND REASONABLE DOUBT NOT REQUIRED.

You will please note in this particular that the law does not require that even 12 members of the grand jury be convinced of the truth of the charge beyond a reasonable doubt. Often justice miscarries because a grand jury misunderstands this and demands evidence beyond a reasonable doubt when a prima facie case or proof of probability only is necessary. Many prima facie cases made by the Government on trial before a petit jury become convictions beyond a reasonable doubt when the defense is heard. The law is that if it be the judgment of the grand jury, or 12 members thereof, that the facts suggest a preponderating probability of the truth of the charge, a bill should be returned. This is the question, then, which a grand juror should ask himself: Does the evidence disclose that the crime in question has probably been committed by the person under consideration? If that is his judgment, he should vote for a bill. He should not insist on proof convincing his mind beyond a reasonable doubt. Involved in this proposition is the fact that the grand jury is not to take upon itself the burden of determining any case absolutely on its merits. It must not permit itself to usurp the functions of the court and petit jury. It must remember that it is a preliminary body altogether, to protect the individual against an improvident prosecution for a serious offense, and to secure to the public an impartial and dispassionate investigation into the observance of the law.

SHOULD NOT HEAR DEFENSE.

You ought not, therefore, to demand or even permit the presence of a defendant. It is bad practice and against settled Federal authority to give one whose case is under investigation an opportunity to be heard in person or by his witnesses. So to do is to go beyond your functions, and respecting a great many offenses the practice is especially pernicious. The merits of a case should be tried in the open, upon testimony under public scrutiny and under the trained guidance of the court. Only in this way can testimony be confined to its legitimate channels. Again, the merits of the case should be determined by a jury which, respecting that particular case and its particular facts shown in testimony, has the benefit of the court's explanation of so much of the law as applies to the exact issue. None of these safeguards is practicable to be had in the grand jury room, and this court will not permit a case to be so finally disposed of by the grand jury if it is aware of the fact. Just as the defendant under the Constitution is entitled to have the case against him presented in his presence and in the open, so the Government is entitled to have the defense made in the open and under the scrutiny of the only agency, namely, the court, which has the power to keep that defense within its legitimate channels.

SCOPE OF TESTIMONY.

The jury should be satisfied that evidence has been presented to it touching every essential question, consideration of which goes to make up a case. But, involved in the proposition that you are not called upon to go further in your judgment than to see in the facts a strong probability of the truth of the charge is the fact that you are not required to ask conclusive or even all of the proof upon any particular subject. It is often advisable, especially in cases of very great importance, that the district attorney be not compelled to spread his whole case before the grand jury. Yet enough of it, covering every essential element of the charge, should be presented upon sworn testimony to enlighten the jurors' judgment as to what the probabilities are.

JURY CONTROLS ITS MOVEMENTS.

As you go from this charge an independent branch of the court until your work is completed, it follows that you sit and rise upon your own initiative. The court may summon you from time to time, but once summoned, only you have the right to determine when you will recess or how long your sessions shall be. The court advises you to be as expeditious in the transaction of your work as may be practicable, to be as economical of public money as you fairly can, but at the same time do not let considerations of expense interfere with a thorough inquest into conditions.

NO STATE OFFENSES INVOLVED.

This court administers the laws of Congress only. Many alleged crimes are reported to Federal officers which can not be prosecuted except in the State courts. We have nothing to do with them. A general understanding of this fact would save the court much inconvenience and misunderstanding on part of the public.

THE NATIONAL PROHIBITION ACT.

Just now the national prohibition act is most in the public mind. Because of that fact diligence in its enforcement is very necessary, or else respect for law generally will greatly lose ground. This court conceives the enforcement of this act to be a supreme test of the question whether this is a law-abiding democracy or not. Therefore, we have no hesitation in asking this grand jury to join the court in taking up the gauntlet and in accepting the challenge that this act can not be enforced.

LAW EASILY ENFORCEABLE.

Our opinion, after an active experience of more than a year, is that the act can easily be enforced and the dignity of the law can be upheld, if there exists an intention on the part of the officers of the law to do their plain duty. It is our judgment that the so-called public sentiment, against which the operation of the law is said to contend, is not the sentiment of any considerable portion of the people of this community; that those who lack sympathy with the enforcement of the law and the law's purpose, and who proclaim a hostile public sentiment regarding it, are in a hopeless minority, prominent because of the noise they make, and more numerous in sound than in fact. It seems very clear that if there were a hostile public sentiment here toward this law, the fact would be reflected in our juries, which are drawn from the average of respectable citizenship. Our observation, here and at other places of holding court in this district, is that, given a fair presentation of the facts, our juries treat cases under this law upon their merits as carefully and dispassionately and vote for verdicts of guilty as readily as in cases of infractions of other laws. In fact, the only difficulty encountered in the enforcement of this statute is that which arises from cupidity of many persons, coupled with a

further fact that the illicit liquor business peculiarly involves surreptitious and somewhat easily concealed transactions. It is the same difficulty in about the same degree which obtains in the detection and prosecution of narcotic crimes. One who engages in it is indeed largely protected by a lazy belief that the law's enforcement is not supported by public sentiment. It is this court's experience that the enforcement of any law is already half done when it is generally understood among the people that those who have an official duty to enforce it propose to perform that duty unflinchingly.

PUBLIC HEALTH INVOLVED IN ENFORCEMENT.

There is now a great public concern in the rigid enforcement of this law because of the effect of illicit liquor dispensation upon the public health. During the term which has just closed, this court has had in the neighborhood of 100 cases of sales in which were produced from each case exhibits of the commodity which passed over the bars of so-called soft drink places in Toledo as whisky. In but one instance out of this many cases has genuine whisky been obtained. In each of all the others, the liquid was imitation whiskey manufactured from alcohol with a coloring matter, or newly made with all the extremely poisonous ingredients and specially injurious characteristics which it is understood that the process of aging whisky removes. The consumption of this stuff is extremely deleterious to the public health, and to suppress this traffic should be the determination of the public and its officers. The Government has also discovered that considerable business has sprung up in the trafficking in so-called whisky bearing forged labels and Government stamps which are made to represent the liquid to be of well-known brands, while in fact it is of the vilest character. These considerations emphasize the demand that the law be enforced with determination.

I am glad to say that this grand jury will not have before it so large a proportion of small cases as hitherto have come up for indictment. It has been found possible to present by information to the court all liquor cases which involve a penalty of not more than one year's imprisonment or a fine, thus saving much expense to the Government and resulting in more expeditious disposition of offenses. This will leave the grand jury time to do what is most important in the enforcement of any law, namely, to give attention to the larger offenses.

LARGE OFFENDERS SHOULD BE PROSECUTED.

The conviction of one highly placed and influential offender against any law is much more to be desired and brings about a better respect for the law itself than a gathering in of many less prominent and less extensive violators. This court has been crowded with many small cases; the privilege has come but a few times to convict notorious and much talked of offenders. It is very probable that there are some persons of political, social, and perhaps other high influence in this community who are habitually violating these laws with large profit to themselves. It is sincerely hoped that this grand jury will use to the limit its very great power to command the resources of the Government at its disposal to bring such persons to the bar of this court. Any law soon loses respect and efficiency if large offenders are allowed to escape and less influential and less pronounced violators prosecuted, and when once there becomes a settled public conviction that any criminal act fails in enforcement crime at large is greatly encouraged.

In this connection, but not by way of setting a limit to your investigations, we suggest subjects for initial action from reports of alleged offenses which have informally come to the attention of the court.

WHAT IS IMPROPER USE OF THE MAILS.

Section 215, Criminal Code, just mentioned, is in substance to the effect that whoever, having devised a scheme to defraud, uses or causes to be used the mails of the United States in any way to assist in the consummation of that fraud, is guilty of an offense against the United States. Two ultimate questions of fact are necessary to be found, as probably present in such a case, before the grand jury should return a bill of indictment. The first is a scheme to defraud. This may be of any nature which is fraudulent in its purpose. You will please understand, however, that the fraud which must be present is not necessarily what is known as fraud in law; that is, some conduct which is in violation of some specific statute or law. If the enterprise alleged to be fraudulent is one which shocks the sense of right and wrong because seen to be with purpose to defraud the object, it is sufficiently within the reprobation of this statute whether it be specifically defined as illegal or not. The alleged fraudulent purpose need not have been one which had even a promise of success; it may have been foolish in its conception, or in plans for its execution and yet be within the law. You are instructed further that the fraudulent purpose need not be shown to have been one directed definitely against any specific person, nor one shown in the evidence to be even specifically and definitely devised. It is sufficient for the purposes of this statute if the fraudulent purpose, alleged to be entertained by the subject under consideration, is general in its nature and held against any indefinite person who may possibly come within its operation; then the law in question applies. Going now to the other element of the crime, the use of the mails, you are instructed that the use of the mails is not necessarily such use as that which would be in itself objectionable to the Government. The letter or other attempt to use the mails may be, standing by itself, purely unobjectionable, carrying with it and in its terms no suggestion of fraudulent or improper purpose, yet if it is seen in the testimony to be so related to the fraudulent purpose that it appears to have been made with an intention to effect the fraudulent purpose in any degree, such use is within the prohibition of the statute. You will also further observe in this connection that it is not the effective and successful use of the mails which only is reprehended by the statute. If the use of the mails itself comes to nothing, does nothing to promote the fraudulent scheme, or if merely an attempt to use the mails has been made, or if the fraudulent scheme itself fails, if either or both of the failures exist, nevertheless the transaction is within the law, provided the evidence tends to show a probability of the presence of both of these elements, in proper relation to each other, even with their feeble results. It is not the success or good sense of the alleged fraudulent scheme or the effectiveness of the use of the mails which counts. It is the presence of the fraudulent scheme and an attempted use of the mails to help such a scheme which combined make up the offense to which the statute attaches.

THE LAW OF CONSPIRACY.

This grand jury will have further consideration of the robbery committed in February at the city post office, and I am informed that you will have before you a charge of conspiracy in that connection.

For this reason, and because of previous suggestions by the court, you should understand how to apply the law of conspiracy. The Federal statute provides that when two or more persons agree to violate a law of the United States and, while that agreement is in existence, to further the same act is done by one of the conspirators, an offense against the United States has been committed. Simply entering into an unlawful agreement is not an offense, but the agreement with some step taken to work it out constitutes the offense. The necessary step is called the overt act. It may be but a slight matter and not be anything that succeeds in helping the conspiracy, but if it is something which is of a tendency to help the conspiracy, the case is complete. It is very desirable, respecting the matters directed to your attention in this charge, that you should note that it is not necessary, to give this court jurisdiction, that a conspiracy should be shown to have been entered upon within this district. If an agreement to violate the law has been formed beyond the territorial jurisdiction of this court, yet something, however ineffective, has been done within the district by one or more of the conspirators to help that agreement, the case can be prosecuted here and you can command the evidence from witnesses beyond the confines of the district. The existence of a conspiracy is provable by evidence showing a concert of action, a relation between the suspected purpose and transactions by one or more of the parties, which, compared with all the circumstances in the case, show that the parties moved with a common end in view. It follows that the so-called overt act, necessary to be established in order to make the offense complete, and to give the court jurisdiction, may not only serve for that purpose but may be one of the circumstances taken as tending to prove the existence of the conspiracy itself.

In any case in which a law of the United States has been violated by two or more persons acting in concert, the facts which establish violation itself, if they show action in concert by the principals, may be resorted to for a charge of conspiracy to violate the law, and all persons who consciously and willfully act to aid and abet or assist the principal actors in the transaction, either before or after the event, but still while something is to be done to bring the enterprise to an end, may be joined with the principal actors as co-conspirators, for anyone who consciously associates himself with the conspirators at any stage of the transaction, before it is concluded, even though he may not be in at the beginning nor stay to the finish, may be included in the charge. When once it is clear that a concert of action indicating mutual agreement is established, the act of every co-conspirator, even in the absence of his fellows, which tends to promote the object of the conspiracy, becomes the act of every other co-conspirator chargeable against him.

OTHER CRIMES SHOWN IN LIQUOR INVESTIGATIONS.

We have dwelt most largely in this charge on the national prohibition act because there is a peculiar interrelation of crime, and a thorough investigation of any particular case may open up leads which develop offenses of an entirely different nature. It is the experience in Federal courts that prosecutions for one class of offenses often develop and assist prosecutions of an altogether different class. This tendency is peculiarly noticeable in this court since the enforcement of this new law has been undertaken. The illegal traffic in narcotics is closely related to that in intoxicating liquor. Also the enormous profits possible in each unlawful business attract criminals whose specialties are in another line. The traffic in morphine, cocaine, heroin, and other narcotics has been a marked feature of crime in this district, largely due to the fact that Toledo is an important railroad center, situated near to the Canadian border. The jury will find that if it sets itself diligently at work in the enforcement of the prohibition act it will be of very great assistance in the limitation of the traffic in narcotics and that there will also come revelations, profitable in prosecutions, of violation of other laws. Leaving out altogether consideration of moral questions, it is the conclusion of Federal experience that the most practical way to attack crime in general is to enforce the liquor laws. If there is a real desire and intention on the part of good citizens of any shade of thought respecting sumptuary laws to restrain and reduce whatever abnormality of crime there may be in Toledo as the metropolis of this Federal division, the key which unlocks the doors of vice and crime most practically and efficiently, productive of the most comprehensive results, is this law. The records of this court prove these assertions.

CONSPIRACY IN LIQUOR VIOLATIONS.

The Federal conspiracy act is a powerful weapon to depress interest in the business of crime. The attention of this grand jury is specially directed to it in connection with liquor violations. When two or more persons, either as partners, or proprietor and barkeeper, or silent owner and a supposititious proprietor, or even as landlord and tenant, act together in the illegal dispensation of intoxicating liquor, generally the elements of conspiracy exist and prosecutions therefor may be had. Instances have been disclosed wherein persons have established drinking places and then have hired others to pose as owners, paying large wages that the latter may carry the burden of possible prosecutions. In such cases the parties might well be prosecuted for conspiracy, that the cowardly secret owner might receive a proper punishment. We have also noted circumstances in which it has seemed practicable to include landlords in a conspiracy charge. A few penitentiary sentences would inculcate a wholesome respect for this law, observance of which is as much the duty of a respectable and law-abiding citizen as any other, while the opportunity to fine up to \$10,000 gives the chance to require some of the illegal gains to be given to the Government in lieu of taxes of which it has been defrauded. This law applies equally to negotiations for purchase of liquor for home consumption. The purchaser and seller may be jointly indicted for conspiracy.

PROSECUTIONS FOR PERJURY.

The crime of perjury is very prevalent. It should be discouraged by prosecutions. We propose to scrutinize testimony in open court during this term with a view of advising you of facts. You, through diligent attention to testimony before you, may also find occasion to indict for this crime committed in your presence.

WITHHOLDING EVIDENCE.

Your attention is also directed to section 146 of the Criminal Code. By its provisions one who has, but withholds, important evidence concerning an offender against the United States may be prosecuted for misprision of felony. The statute makes it the duty, under a heavy penalty, for any citizen, knowing of the commission of a Federal felony, to forthwith communicate his knowledge to some Government officer.

The members of this grand jury, other than the foreman, will please observe that while the oath they have taken was general in its character, yet its terms obligate you to the same duty of secrecy which was made a special element of the oath of the foreman, for you have

promised to observe the same oath the foreman has taken. This obligation of secrecy is no idle one. You are admonished, therefore, to refrain from making the proceedings in the grand jury, either as to testimony or the identity of witnesses or the subjects under consideration, a matter of discussion and gossip outside of the grand jury councils. Much mischief in the administration of the law will be avoided if grand jurors strictly observe this injunction.

We feel sure that if this grand jury takes its work seriously, comprehending what its independent powers are, and using them, its members will find their labors very profitable personally and the work of absorbing interest. You will also find compensation for the sacrifices which some of you may be compelled to make of your personal interests in the fact that you will have contributed greatly toward the moral well-being of the community.

Mr. FULMER. Mr. Speaker and gentlemen of the House, I realize that the bill before us, known as the ship subsidy bill, deals with a very large question, which I sum up in a few words:

Shall this great Government continue to lend a hand to the monopolistic interests of the country?

Shall a party's political debts be paid by cunningly devised taxes on the masses of the people as bonuses to professional classes?

Shall we grant monopolies to business manipulators, whose policy is to squeeze the public, and then write into the law of the land an official invitation to them to walk up to the Nation's Treasury and have handed to them complimentary pay envelopes inscribed with Secretary Mellon's Christmas greetings: "Gentlemen, our people thank you for your kind services. There is more like this. Come again."

After listening to the speeches of men like Mr. DAVIS, of Tennessee, Mr. BANKHEAD, of Alabama, Judge HARDY, of Texas, and others who have served on the committee, and who have had a chance to attend the hearings upon the Treasury-looting scheme, I am unable to discover one legitimate reason for voting in favor of it.

Instead I see in it a contemplated Treasury raid, an official Thanksgiving Day dinner, a Christmas feast, a New Year's revel, an Easter offering, a Fourth of July spread for the gourmands of big business, and a dangerous encroachment upon sound and healthy lawmaking.

I have never encountered what appears to be a more studied and brazen attempt deliberately to squander the people's trust fund, sacred though it should be in the hands of their trusted and unbonded administrators, by donating millions of dollars from it for the enrichment of a favored, noncompetitive class.

Surely, gentlemen, you are not unmindful of the scandalous remarks and charges and rumors clouding the atmosphere. Why is it that every man is not credited with considering and voting upon this measure upon its merits? Why are there rumors of wholesale trading of votes for administration jobs? Why is it said that Mr. Lasker, now the head of the Shipping Board, is to head a gigantic corporation to rake in scientifically the luscious bonuses and velvety subsidies that await the inner circle should this measure become a law? Listen to this from the Washington Daily News of November 28:

The Old Guard in Congress is willing to trade everything it can lay hands on for votes for the administration ship subsidy bill.

Most of the hundred or more Republican lame ducks in the House and Senate are being given to understand that none of them will be taken care of with Federal appointments until after the vote is taken on the subsidy.

The Old Guard is using this as a powerful club to line up votes for the subsidy. And a substantial majority of the lame ducks prefer to stay on the Government pay roll after their present terms expire rather than go to work in private life.

Three other inducements are being used:

1. A proposition to deepen the Mississippi River and make it navigable for ocean-going vessels as far up as St. Louis.
2. The St. Lawrence ship canal project.
3. A promise of relief and benefits for farmers.

"Of course," declares Representative FREAR, of Wisconsin, a leader in the Republican opposition to the subsidy, "nobody expects this Congress to do anything tangible either in the matter of deepening the Mississippi or in the St. Lawrence ship canal project, but they could be used by some Members as an excuse to their constituents for voting for the subsidy."

At least one important White House conference lately is known to have been given over largely to a discussion by the President and his callers of what should be done to care for those Members who went down in the recent elections. A substantial number of defeated Members of both House and Senate are to be taken care of.

Now, listen:

But there will be no distribution of plums—at least to House lame ducks—until after to-morrow. That is the date set for a vote on the subsidy bill.

What an indictment! Jobs for votes! Votes for jobs! If you want a job just wait and let's see how you vote for the Harding-Lasker helping hand bill.

As for me, I prefer to believe that conscience will be your guide.

And hear Samuel Gompers voice the position of the American Federation of Labor in his letter to each of us this morning:

It is without doubt one of the most brazen Treasury-looting schemes ever devised. And scoundrelly measures, like scoundrelly men, take refuge in patriotism when no other offers. The bill is urged on grounds of patriotism. It is difficult to think of anything more unfitting. This

bill will not give America a merchant marine. Labor joins with all others who want a well-manned, adequate merchant marine. But it denounces this bill as a fraud, a robbery, and wholly indefensible.

After experiencing the operation of the Esch-Cummins bill, giving to the railroads of the United States a subsidy, which, next to the deflation policy of the Federal Reserve Board, has done more to paralyze agriculture and stifle legitimate business than any other piece of legislation passed by Congress in recent years, we should certainly be on our guard against this companion measure.

Then, if I had no other reason, I could not support this measure when I find it supported by the United States Chamber of Commerce, one of the biggest lobbies in the interest of big business, J. P. Morgan & Co., and other powerful Wall Street individuals and groups, who by their efforts in trying to control legislation are exerting a most potent influence in bringing about extreme radicalism and even bolshevism in this country. This chamber, heavily financed by its backers, hangs about Washington for the purpose of superintending the enactment of legislation and putting over schemes which I can never approve, inasmuch as I regard them as absolutely detrimental to the best interests of the country.

For example, the United States Chamber of Commerce advocates a sales tax, as does Mr. William Randolph Hearst and other people of great wealth, expecting eventually to substitute such a tax for taxes on incomes and excess profits. If they can have their way, they will transfer the tax burdens to those who are least able to pay them—to those who have little means and small earnings and who already feel the pressure of conditions from which they can not escape. Thousands of small property owners in my section of the country, and I take it that the same applies to other sections, are now unable to meet their tax bills, and all that many of them possess is being sacrificed under forced sales.

We do not have to look far for the causes of the pitiful conditions existing in some of the agricultural sections and the bank failures and the bankruptcies in legitimate business and the suicides. We see it in the failure of the Congress broadly to vision the whole people and enact helpful legislation instead of allowing moneyed interests to lobby around Washington and write or dictate the writing of practically all important measures.

A few large manufacturing interests succeeded in putting over the Fordney tariff bill, which will benefit a few and take millions of dollars from the consumer and the producer. I have no doubt that Mr. Hearst and his associates, with the assistance of the United States Chamber of Commerce, will at some early date write a sales-tax measure and endeavor to ram it down the throats of a majority of the Members of Congress by their subtle propaganda and expert newspaper publicity—the kind that will be very convincing to those who have no chance to study these great questions.

I believe, with Mr. DAVIS of Tennessee, that if we had a real business man who knows something about the business of shipping instead of Mr. Lasker, who admitted at the time of his appointment that he knew nothing about that business—and whose policy will soon get the shipping business in such a condition that nobody can save it, and then it will be handed to the money sharks for a song—it would to-day be operating successfully. Apparently his employment of superlawyers at salaries running up to \$35,000 has not brought about commensurate good.

This bill gives to a board, made independent of Congress and the President and the courts, absolute power to loan, at interest as low as 2 per cent per year, out of a revolving fund of \$125,000,000, two-thirds of the cost and equipment of vessels built in private shipyards, with subsidies as also provided. This seems to be in line with the apparent privileges enjoyed by the railroads under the Esch-Cummins bill.

To a large extent the Interstate Commerce Commission takes dictation from the railroad owners in fixing rates and approving tariffs. For instance, the agent of the Southern Railway at Richmond issued tariff No. 2, Interstate Commerce Commission No. 358, to take effect October 15, 1921, Eastbound Carolina class and commodity tariff from local points in Georgia, North and South Carolina and Virginia to Eastern States and interior eastern points, forbidding the shippers of hogs to ship in double-decked cars.

What did it mean? These people from Southern States, suffering from the deflation of 1920, with cotton crops destroyed by the boll weevil, tried to get back to a living basis by raising cattle and hogs. The rate from Springfield, S. C., to Richmond, Va., on two single cars was \$157 as against \$92 for a double-decked car carrying the same number of hogs.

So the railroad, not satisfied with their 6 per cent guaranteed profit, attempted further to penalize these shippers by compelling them to pay \$157 for a shipment that could have

been made for an announced rate of \$92. There was subsidy with a vengeance. I took up the matter with the commission and they agreed that the tariff looked bad and it was accordingly canceled. But see what an opportunity there was for "mopping up" as long as this special tariff (and I suppose there are many similar instances) was in effect.

Cargoes and not ships, freights and not subsidies, are the present need. The war left us with more ships than we can use and freighters by the score are rusting in our great harbors. The farming interests of the West and the cotton-growing South and the manufacturing East are not held back from the markets of the world by lack of American ships, but by import duties imposed upon the American people by the Fordney Tariff Act, which throttles export trade, and subsidies, which mean heavier taxation, only add to their burdens and produce greater revolt. Our country is to-day stifling with its own goods and the outside world is hungering and thirsting for them. Many of the foreign countries are without money to buy, but if they were allowed to export their goods in exchange for ours we would soon see a different complexion in business, both in this country and in Europe.

For this subsidy fund the Secretary of the Treasury is required to devote all tonnage duties, 10 per cent of all customs duties, the equivalent of all mail subsidies, and half of excess earnings above 10 per cent, if any, of subsidized vessels, all of this permanently appropriated without further control by the Congress. This subsidy fund is estimated at from \$30,000,000 to \$50,000,000 per year, to be paid out of the pockets of the people.

This bill confers upon Chairman Lasker—who when examined by the committee stated that he had "only been a regular advertising expert," not a shipping expert—and his associates, without the requirement of having to submit reports, autocratic powers which invade the province and transfer the authority of the President, the Secretaries of State, Treasury, War, Navy, Labor, Commerce, the Postmaster General, and the Commissioner of Internal Revenue, as well as of Congress, and which admittedly involve a tax burden of \$52,000,000, which may indirectly reach \$100,000,000.

I have heard of no real demand coming from the people or from either party for a special call of Congress to pass this bill. On the other hand, this bill was advocated by the President before the last Congress, but was delayed by the Members in order to feel the popular pulse. To my mind the passage of the Fordney tariff bill, the veto of the veterans' bonus bill, and the belief that the Republican administration would ram this indefensible ship subsidy measure through Congress was the cause of the defeat of nearly 100 Members of the Republican persuasion three weeks ago.

I agree with my good friend, Mr. TINCER, of Kansas, and with Mr. GAHN, of Ohio, that the passage of this bill will spell the winding up of the Republican Party in 1924, because the people are at last giving signs of rebelling against legislation in the interest of a few.

I know that there are thousands of parasites, middlemen, between the producer and the consumer, but I do not hear of any administration measures to weed these out and protect these helpless people. I know that our marketing system is wrong and that the farmer has much produce to sell, but in some instances he can not give it away, and in the meantime the consumer is paying inflated prices. Credits are tight, interest rates are high. Of course, much good has been done by the Federal reserve bank and the War Finance Corporation, but on account of red tape, and the great masses not being able to come in direct contact with these splendid institutions, thousands and thousands of persons who need assistance never get it.

The Federal reserve banks loan only to member banks, the present rates being from 4 to 4½ per cent. The farmer is borrowing from banks as usual, if he can borrow at all, paying from 8 to 10 per cent, besides revenue stamps, recording fees, and attorney's fees for writing chattel and real estate mortgages, which are drawn so that if payment is not made at maturity the attorney can charge 10 per cent for collecting.

Who that votes for the ship subsidy bill, carrying loans of \$125,000,000 at 2 per cent, is game enough to vote for a sufficient loan fund for the farmer at 2 per cent, whereby he can be helped to pay his losses, and agriculture can be put back on a paying basis?

How many supporters of this Lasker bill will vote to have the Government furnish the cotton and grain farmers with nitrate of soda at cost prices, and thereby check the highway robbery on the part of Grace & Co. and several other importers of soda who bought the Government soda last year at from \$30 to \$35 per ton and, inasmuch as they controlled the imports, put the price to the farmer at from \$65 to \$75?

I challenge the older Members of the House who have been here for years to work out some legislation along these lines. If this is done, watch the United States Chamber of Commerce and the Fertilizer Trust, which beat Henry Ford out of Muscle Shoals, come rushing with propaganda to defeat it.

I have just had some correspondence with Secretary Wallace, of the Department of Agriculture, relative to his approval of an appropriation of \$200,000 for extending the market news service of the department by telegraph to the States of Virginia, North and South Carolina, Alabama, Georgia, Louisiana, Florida, Tennessee, Texas, and Mississippi. This service would furnish to interested persons in those States daily telegraphic information on prices and conditions in the larger markets and principal producing sections of the United States. This service was rendered during the war, but on account of insufficient funds it was discontinued in June, 1919. Secretary Wallace says:

While the department feels that the expansion of this leased-wire market news service would accomplish a great deal in facilitating efficient marketing by making available to all concerned a better knowledge of daily supplies and prevailing prices, we must keep in mind the present necessity for retrenchment in governmental expenditures.

This service would cost only \$200,000 to post daily the people who produce cotton and foodstuffs as to supplies and prices, yet this is considered too heavy a drain upon the Treasury. This is how the small shipping and producing people of these States "get it in the neck," but there are some who consider it absolutely all right to pay out of the Treasury of the United States from \$50,000,000 to \$100,000,000 a year to a favored few in the nature of a subsidy.

It is not, I say, by such legislation as the powerful interests demand that relief will be afforded to the mass or that they will be protected against further exactions, but by really constructive legislation in the interest of the entire public which it is incumbent upon Congress to enact.

Let us determine that there shall be no more such legislation as the railroad bill, which is directly to the advantage of the railroad owners and to the disadvantage of everybody else; or the tariff bill, which is to the interest of a few, comparatively, and to the disadvantage of everybody else; or the present bill, which is likewise to the interest of a few, comparatively, and to the disadvantage of nearly everybody else, including those great classes that produce the necessities of life and that labor in the various occupations that are essential to the progress and upbuilding of the country.

By unanimous consent leave to extend remarks in the RECORD was granted—

To Mr. KINDRED.

To Mr. JONES of Texas.

To Mr. KLINE of Pennsylvania.

To Mr. MICHENER.

To Mr. MONDELL.

To Mr. BANKHEAD.

Mr. BANKHEAD. Mr. Speaker, on yesterday the following colloquy took place in the Committee of the Whole:

Mr. BANKHEAD. Mr. Chairman, I move to strike out the last word. I ask unanimous consent to proceed out of order for five minutes in order to correct what I think is a rather grave injustice done to one of the witnesses who testified before the committee.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent to proceed for five minutes out of order. Is there objection?

Mr. SNYDER. I object.

Mr. MONDELL. Mr. Chairman, I regret, but I have objected all day to discussions out of order, and I feel that I must do so now.

The CHAIRMAN. Objection is heard.

Mr. BANKHEAD. I want to be recognized on my motion, Mr. Chairman.

The CHAIRMAN. The gentleman from Alabama is recognized for five minutes.

Mr. BANKHEAD. Mr. Chairman, I shall not undertake to do by indirection what I can not obtain leave to do directly. I hope the gentleman will withdraw the objection. I am not going to raise any controversial issue, but I would like an opportunity to correct a statement with reference to the attitude of Mr. Edgar Wallace, who appeared before the committee as a representative of the American Federation of Labor. I do not say that his position has been willfully misrepresented, but it has been incorrectly represented in this debate, and in justice to him and his organization I ask this privilege.

Mr. GREENE of Massachusetts. I was the only person who made reference to him.

Mr. BANKHEAD. It is with reference to the statement of the gentleman from Massachusetts in the debate that I ask this privilege.

Mr. GREENE of Massachusetts. I declined to allow it because I simply spoke from memory. I am willing to have read into the RECORD what he said.

Mr. BANKHEAD. That is all I want to do.

Mr. GREENE of Massachusetts. There is no objection to that.

Mr. BANKHEAD. Then I ask unanimous consent to extend my remarks in the RECORD by reading into the RECORD the question of the gentleman from Massachusetts and the reply of Mr. Wallace.

Mr. GREENE of Massachusetts. The gentleman asked what he said. I stated what he said, intending to state what was true. If I made any misstatement of it—I do not think I did—it was made inadvertently. I have no objection to any correction of that statement, but I do not want the RECORD to be cluttered up with a lot of immaterial matter.

Mr. BANKHEAD. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by incorporating therein the question asked by the gentleman from Massachusetts of the witness, Edgar Wallace, in the committee as to his attitude on this question and his reply thereto—only about 10 lines.

The CHAIRMAN. Is there objection?

There was no objection.

The following are the questions asked Mr. Edgar Wallace by the chairman of the committee [Mr. GREENE of Massachusetts], and the answers thereto, taken from the official report of the hearings:

Mr. GREENE. Then you would prefer to ship in foreign ships because they will take it cheaper than we will?

Mr. WALLACE. I mean to say this: We can never hope to do as much export and import business as some country that depends entirely for its living on shipping out stuff in bulk and bringing back stuff in bulk that she needs. We don't need much that would make bulk freight come into this country. I believe there is the great reason why we can't make a merchant marine pay—because that which we import generally comes into this country in small quantities, mostly luxuries. That does not come in bulk, while our exports are in bulk, or could be in bulk.

Mr. GREENE. But we did control the merchant marine a number of years ago. We had a great deal of it.

Mr. WALLACE. We traded—

Mr. GREENE (interposing). And we were then a small country. Now we are a great country with great resources, and we don't take a back seat to any other nation on anything else, but you want us to give up the sea, which is free to everybody. You want us to give up the sea and allow some other nation to possess the sea while we sit back and let them take it.

Mr. WALLACE. I have said that I believe this country could compete successfully upon the sea, in building vessels and in managing vessels.

Mr. GREENE. Our vessels have gone down, have gone out of sight. We haven't carried more than 8 per cent of our product.

Mr. WALLACE. We have carried just as much as there is a demand for, and that is all we could do if we had a private merchant marine.

Mr. GREENE. We will try to create a demand and then we will do something. That is what we are trying to do. We may make a mistake, but we will try it, whether we succeed or not. I am something of a Yankee myself, and if anybody beats me I try to beat them. Go ahead. You are not obliged to give up because for a number of years we haven't succeeded. We are stronger than we ever were. We have a merchant marine. What are we going to do with it? Put it in use.

Mr. WALLACE. But don't give it away and then pay people to run it. That is what we object to.

It will be seen, therefore, that the chairman of the committee was grossly inaccurate when he charged that Edgar Wallace had testified that "he would prefer to have American goods carried in British bottoms than American bottoms." Mr. Wallace made no such statement, nor anything else that could be distorted into such a conclusion. He was the official representative of the American Federation of Labor before the committee, and the charge made against him was a grave injustice to Mr. Wallace and the organization which he appeared for. I make these observations and incorporate the facts in the interest of truth and justice.

By unanimous consent, leave to extend remarks in the RECORD was granted—

To Mr. RAINEY of Illinois.

To Mr. VOLK.

ADJOURNMENT UNTIL FRIDAY.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet on Friday.

The SPEAKER. The gentleman from Wyoming asks unanimous consent that when the House adjourns to-day it adjourn to meet on Friday. Is there objection?

Mr. GARRETT of Tennessee. Reserving the right to object, may I ask the gentleman if it is contemplated that any business of consequence will be transacted on Friday?

Mr. MONDELL. It is not. It is not expected that any business will be taken up on Friday. At that meeting, however, we should consider the question as to a further adjournment and as to whether we should adjourn to an hour before the meeting of the regular session on Monday.

Mr. GARRETT of Tennessee. Is it also safe to assume that there will be no business of consequence transacted on Saturday and probably no meeting of the House on Saturday?

Mr. MONDELL. My present thought is that on Friday we will adjourn until Monday, and possibly until Monday at 11.30 o'clock, if that is agreeable to gentlemen on the other side.

Mr. GARRETT of Tennessee. If for any reason it should develop—and I do not assume that it will—that there is to be a meeting on Saturday, it will be safe to assume that no important business will be transacted on that day?

Mr. MONDELL. It is entirely safe to assume that. I hope there will be no meeting on Saturday.

The SPEAKER. Is there objection?

There was no objection.

LEAVE TO WITHDRAW PAPERS.

By unanimous consent leave was granted, at the request of Mr. McCLINTIC, to withdraw from the files of the House without leaving copies the papers in the case of Mollie C. Fikes (H. R. 7279, 67th Cong., omnibus H. R. 7847) no adverse report having been made thereon.

ADJOURNMENT.

Mr. MONDELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 3 o'clock and 24 minutes p. m.) the House, under the order previously agreed to, adjourned until Friday, December 1, 1922, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. LANGLEY: Committee on Public Buildings and Grounds. H. R. 12174. A bill to authorize the Attorney General to convey certain land of the United States to Fulton County, Ga., to widen McDonough Road in front of the United States penitentiary; without amendment (Rept. No. 1261). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. VOLSTEAD: Committee on the Judiciary. S. 4025. An act to permit Mahlon Pitney, an associate justice of the Supreme Court of the United States, to retire; without amendment (Rept. No. 1262). Referred to the Committee of the Whole House.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. FREAR: A bill (H. R. 13091) to control monopolies; to the Committee on the Judiciary.

By Mr. ANDREWS of Nebraska: A bill (H. R. 13092) providing for the extension and enlargement of the post-office and court building at Hastings, Nebr.; to the Committee on Public Buildings and Grounds.

By Mr. McSWAIN: A bill (H. R. 13093) to enlarge and extend the post-office building at Greenville, S. C.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 13094) to enlarge and extend the post-office building at Spartanburg, S. C.; to the Committee on Public Buildings and Grounds.

By Mr. MacLAFFERTY: A bill (H. R. 13095) to provide for the erection of a public building at Oakland, Alameda County, Calif.; to the Committee on Public Buildings and Grounds.

By Mr. SABATH: Joint resolution (H. J. Res. 399) supplementing the trading with the enemy act; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. SHREVE: A bill (H. R. 13096) for the relief of Lorenzo E. Leonard; to the Committee on Military Affairs.

By Mr. DARROW: A bill (H. R. 13097) for the relief of Frank Reed Horton; to the Committee on Naval Affairs.

By Mr. FAUST: A bill (H. R. 13098) granting a pension to Catherine Hogan; to the Committee on Invalid Pensions.

By Mr. FREEMAN: A bill (H. R. 13099) granting a pension to Nathan E. Hopkins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 13100) granting a pension to Eugene S. Nash; to the Committee on Invalid Pensions.

By Mr. LUCE: A bill (H. R. 13101) granting a pension to Thomas Casey; to the Committee on Invalid Pensions.

By Mr. MEAD: A bill (H. R. 13102) granting a pension to Joseph H. Bugman; to the Committee on Pensions.

Also, a bill (H. R. 13103) for the relief of John Heinzenberger; to the Committee on Military Affairs.

By Mr. REED of New York: A bill (H. R. 13104) for the relief of Orrin F. Strickland; to the Committee on Military Affairs.

By Mr. ROBSION: A bill (H. R. 13105) granting an increase of pension to William S. Whitley; to the Committee on Pensions.

By Mr. SLEMP: A bill (H. R. 13106) granting a pension to Malissa A. Bostwick; to the Committee on Pensions.

By Mr. STEPHENS: A bill (H. R. 13107) granting a pension to William Coleman; to the Committee on Pensions.

By Mr. TIMBERLAKE: A bill (H. R. 13108) for the relief of Russell H. Lindsay; to the Committee on Naval Affairs.

By Mr. TOWNER: A bill (H. R. 13109) granting a pension to Jessie Johnson; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

6483. By the SPEAKER (by request): Petition of Peabody Museum of Harvard University, Cambridge, Mass., protesting against the passage of Senate bill 3855; to the Committee on Indian Affairs.

6484. By Mr. BURTNESS: Petition of Bankers' Association of Griggs County, N. Dak., favoring a Government price on wheat; to the Committee on Agriculture.

6485. By Mr. CULLEN: Petition of sundry citizens of New York, opposing compulsory Sunday observance laws; to the Committee on the District of Columbia.

6486. Also, petitions of a mass meeting of citizens of New York City, regarding the imprisonment of Miss Mary MacSwiney and the execution of Erskine Childers; to the Committee on Foreign Affairs.

6487. By Mr. EDMONDS: Petition of Philadelphia Board of Trade, favoring the passage of Senate bill 3217; to the Committee on the Merchant Marine and Fisheries.

6488. By Mr. KINDRED: Petition of Samuel Gompers, president of the American Federation of Labor, of Washington, D. C., relative to the American merchant marine bill (H. R. 12817); to the Committee on the Merchant Marine and Fisheries.

6489. By Mr. KISSEL: Petition of Henslee Sinking Ship Saver, Washington, D. C., urging an amendment to the American merchant marine bill (H. R. 12817); to the Committee on the Merchant Marine and Fisheries.

6490. By Mr. PERKINS: Petition of William A. Voelkel and others, of Westwood, N. J., favoring House Resolution 95; to the Committee on Rules.

6491. By Mr. ROACH (by request): Petition of the citizens of Morgan County, Mo., asking Congress to consider the advisability of granting a Federal pension to all star mail-route carriers of the United States after they have reached the age of 65 years; to the Committee on the Post Office and Post Roads.

6492. By Mr. SMITH of Michigan: Petition of Miss Elizabeth Wylie, industrial secretary Young Women's Christian Association, Battle Creek, Mich., urging further action on the part of our Government be taken in order that the freedom of Armenia and the liberation of the Greeks from the rule of the Turks may be secured at an early date; to the Committee on Foreign Affairs.

6493. Also, resolutions adopted at the Michigan Annual Conference of the Methodist Episcopal Church at Albion, Mich., favoring the passage of House bill 9753, the Sunday law; to the Committee on the District of Columbia.

6494. Also, petition of Michigan Annual Conference of the Methodist Episcopal Church at Albion, Mich., favoring the passage of House Joint Resolution 131, proposing a constitutional amendment prohibiting polygamy in the United States; to the Committee on the Judiciary.

6495. Also, petition of Michigan Annual Conference of the Methodist Episcopal Church at Albion, Mich., favoring the passage of House Joint Resolution 159, proposing a constitutional amendment to prohibit sectarian appropriations; to the Committee on the Judiciary.

6496. Also, petition of Michigan Annual Conference of the Methodist Episcopal Church at Albion, Mich., favoring the passage of Senate Joint Resolution 31, proposing a constitutional amendment authorizing Congress to enact uniform laws on the subject of marriage and divorce; to the Committee on the Judiciary.

SENATE.

FRIDAY, December 1, 1922.

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, with the beginning of another month we desire to recognize the hand that has been blessing us. And we do ask this morning that with the consciousness of Thy presence we may be able to fulfill the task given to us. So guide the interests of our land, bless those in authority, remembering the President at this time and all others upon whom rest the functions of government, and glorify Thyself through us. For Christ Jesus' sake. Amen.

The Vice President being absent, the President pro tempore took the chair.

PETER NORBECK, a Senator from the State of South Dakota, and JOSEPH T. ROBINSON, a Senator from the State of Arkansas, appeared in their seats to-day.